2632

SUPREME COURT OF THE UNITED STATES.

No. 64.

WILLIAM B. DEAN, APPELLANT,

v.

NATHAN MASON et al.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE DISTRICT OF RHODE ISLAND.

INDEX.

	Original.	Print.
Bill of Complaint,	1	5
William Woodworth's Patent,	3	6
Extension thereof by Congress,	9	9
Surrender and Renewal by Wm. W. Woodworth,	11	10
Amended Specification,	12	10
Reissue to William W. Woodworth,	22	15
Oath of Nathan Mason to Bill,	37	21
Subpœna,	38	21
Marshal's Return,	39	22
Petition for Injunction,	40	23
Notice on Petition,	42	23
Marshal's Return,	43	24
Petitioners' Affidavit.		
Affidavit of A. G. Sprague,	44	24
Respondent's Affidavits.		
Affidavit of Ephraim Martin,	44	25
" E. S. Jackson,	48	26
" Bradford Allen	51	28
Petitioners' Affidavits in Rebuttal.		
Affidavit of Nathan Mason,	55	29
Exhibit A., transfer of one-half Patent Right to Charles D. Gould, May 22d, 1850,	61	32
Affidavit of Charles D. Gould,	64	34

	Original.	Print.
Exhibit, Copy of Letter to W. B. Dean, May 24th, 1850,	67	35
Affidavit of Albert G. Sprague,	67	35
" Marvin M. Andrews,	69	36
Answer of Defendant to Petition,	71	37
Exhibit A. Agreement—Nathan Mason with E. Martin, August 9, 1850,	76	39
Decree on Petition,	77	40
Bond,	79	41
Petition for an Account,	81	42
Notice,	82	42
Marshal's Return,	83	42
Interlocutory Decree,	83	43
Writ of Injunction,	85	44
Marshal's Return,	87	45
Commission to J. S. Pitman, Master,	88	45
Oath of Master,	89	46
Citation of Master,	90	46
Master's Report,	91	47
Complainants' Testimony before Master.		
Examination of William B. Dean,	112	57
Do. Albert G. Sprague,	113	57
Cross-Examination of Do.,	114	58
Direct " " resumed,	117	59
Cross- " " "	117	59
Respondent's Testimony before Master.		
Examination of Albert Dailey,	117	59
Cross-Examination of Do.,	120	60
Direct " " resumed,	124	63
Cross- " " "	125	63
Examination of Edward Luther,	125	63
Cross-Examination of Do.,	129	65
Examination of Ray Clapp,	133	66
Cross-Examination of Do.,	136	68
Direct " " resumed,	137	68
Examination of Ephraim Martin,	138	68
Cross-Examination of Do.,	141	70
Examination of William Davenport,	143	71
Cross-Examination of Do.,	147	73
Examination of Jesse S. Thornton,	149	74
Cross-Examination of Do.,	150	74
Direct " resumed,	152	75
Examination of Charles K. Richmond,	152	75
Cross-Examination of Do.,	153	76
Examination of James Cornell,	157	78
Cross-Examination of Do.,	159	79
Examination of Sterry Kelley,	160	79
Cross-Examination of Do.,	161	80
Examination of James Cornell, recalled,	162	80
Examination of Edward Stanhope, Jr.,	162	80
Cross-Examination of Do.,	164	81
Direct " resumed,	166	82
Examination of William Tallman,	168	83

2633

INDEX.

	Original.	Print.
Cross-Examination of Do.,	170	84
Examination of Edward Luther, recalled,	172	85
For Complainants, in Rebuttal.		
Examination of Albert G. Sprague, recalled,	173	85
Cross-Examination of Do.,	175	86
Exhibits filed with Master.		
Dean's Statement of lumber, from May 22, 1850 to January 8, 1851,	178	88
Do. " " January 8th to April 8, 1851,	179	88
Do. " " April 8th to August 29, 1851,	180	89
Order of Board of Aldermen, April 13, 1846,	176	87
A. G. Sprague's Statement,	181	90
Complainants' Objections to draft of Master's Report,	184	91
Defendant's Do., " " "	185	92
Complainants' Exceptions to Master's Report,	168	93
Defendant's Do. " "	188	94
Decree recommitting Report to Master,	190	94
Motion for leave to answer Bill,	193	96
Affidavit of William B. Dean,	194	97
Do. Messrs. Knowles and Carpenter,	196	98
Master's Second Report,	198	98
Complainants' Interrogatories to Wm. B. Dean,	205	102
Examination of William B. Dean,	209	104
Exhibits—List of Power let from May 22, 1850, to August 29, 1851,	227	112
Labor from January 8 to August 29, 1851,	227	113
Vouchers for Coal,	229	113
Vouchers in Lots for Stacking Lumber,	231	115
Vouchers for Repairs,	232	116
Affidavit of William B. Dean before Master,	234	117
Exhibit A.—Labor,	237	118
Examination of Joseph S. Francis,	238	119
Cross-Examination of Do.,	239	120
Examination of William Davenport,	240	120
Cross-Examination of Do.,	241	120
Examination of Albert G. Sprague,	241	121
Defendant's Objections to Draft of Report,	242	121
Motion to dismiss Bill,	244	121
Exhibit A.—Transfer of Patent Right from Gould to Mason, April 9, 1852,	245	122
B.—Transfer of Patent Right from Mason to Baker & Smith, April 10, 1852,	247	123
C.—Deed from Mason to Baker & Smith, April 5th, 1852,	254	126
Order for Decree,	256	128
Decree,	256	128
Motion to file Supplemental Bill,	257	129
Proposed Supplemental Bill,	258	129
Decree on Motion,	266	133
Motion for Appeal,	266	133
Order thereon,	267	133
Appeal Bond,	267	134
Clerk's Certificate,	269	134
Citation and Service,	270	135

At a Circuit Court of the United States for the First Circuit holden at Providence, within and for the Rhode Island District, on the fifteenth day of November, A. D. one thousand eight hundred and fifty-five.

Present, Hon. Benjamin R. Curtis, Associate Justice, Supreme Court United States; Hon. John Pitman, United States District Judge, Rhode Island District; George H. Browne, Esq., United States District Attorney; Francis C. Gardiner, Esq., United States Marshal; Henry Pitman, Clerk United States Circuit Court.

Be it remembered, that at the November Term, A.D. 1850, of the Circuit Court of the United States, for the Rhode Island District, the following bill was filed.

Bill in Equity.

NATHAN MASON et al.
v.
WILLIAM B. DEAN.

To the Judge of the Circuit Court of the United States, for the District of Rhode Island:

Nathan Mason, of the City of Providence in said District, planer of boards; Charles D. Gould, of Albany, in the State of New York; William W. Woodworth, of Hyde Park, in the Northern District of New York, as he is Administrator of William Woodworth, late of the City of New York, gentleman, deceased; and as he is grantee of certain exclusive privileges under, and pursuant to an act of Congress as is hereinafter fully set forth; James G. Wilson, formerly of the City of Philadelphia, and now of Hastings, in the State of New York, gentleman, and Richard Borden and Jefferson Borden, both of the Town of Fall River and District of Massachusetts, bring this their bill against William B. Dean of Providence, in the State of Rhode Island, and a citizen of said State, and thereupon your orators complain and say, that on or about the 4th day of December, 1828, one William Woodworth, then in full life, but since deceased, was the inventor of a certain improvement or machine for planing, tonguing and grooving boards and plank and other material; and so being, made application to the proper department of the Government of the United States, for a patent, in accordance with the then existing laws of Congress; and having duly complied in all respects with the conditions and requisitions of said laws, on the 27th day of December, 1828, letters patent of the United States, signed, sealed and executed, in due form of law, were issued to the said William Woodworth, in substance and effect as follows:

The United States Patent Office, to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy of letters patent, granted to William Woodworth, for an improvement in the method of planing, tonguing, grooving, and cutting into mouldings, or either, plank, boards, or any other material, and for reducing the same to an equal width and thickness, &c,. &c., dated the 27th day of December, 1828, recorded anew on the 22d day of August, 1842, and extended for seven years on the 16th day of November, 1842.

In testimony whereof, I, Henry L. Ellsworth, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this 23d day of January, A.D. 1843, and of the Independence of the United States the sixth-seventh.

(Signed) H. L. ELLSWORTH, [SEAL.]

The United States of America, to all to whom these Letters Patent shall come:

Whereas, William Woodworth, a citizen of the United States, hath alleged that he has invented a new and useful improvement in the method of planing, tonguing, grooving, and cutting into mouldings, or either, plank, boards, or any other material, and for reducing the same to an equal width and thickness, and also for facing and dressing brick, and cutting mouldings on, or facing metallic, mineral or other substances, which improvements, he states, have not been known or used before his application; hath made oath that he does verily believe that he is the true inventor or discoverer of the said improvement; hath paid into the treasury of the United States the sum of thirty dollars, delivered a receipt for the same, and presented a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the said improvements, and praying that a patent may be granted for that purpose. These are therefore to grant, according to law, to the said William Woodworth, his heirs, administrators, or assigns, for the term of fourteen years from the 27th of December, 1828, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said William Woodworth himself, in the schedule hereto annexed, and is made part of these presents.

In testimony whereof, I have caused these Letters to be [SEAL.] made Patent, and the seal of the United States to be hereunto annexed.

Given under my hand, at the City of Washington, this twenty-seventh day of December, in the year of our Lord one thousand

eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

(Signed) J. Q. ADAMS,
By the President.
(Signed) H. CLAY,
Secretary of State.

City of Washington, to wit:

I do hereby certify, that the foregoing letters patent were delivered to me on the twenty-seventh day of December, in the year of our Lord, one thousand eight hundred and twenty-eight, to be examined; that I have examined the same, and find them conformable to law; and I do hereby return the same to the Secretary of State, within fifteen days from the date aforesaid, to wit, on the twenty-seventh day of December, in the year aforesaid.

(Signed) WM. WIRT,
Attorney-General of the United States.

(And for a full and accurate description of the said invention, your orator will hereinafter set forth the language of the specification, and affix thereto the figures and representations of said machine, as the same are annexed to the renewed letters patent, issued thereon on the eight day of July, A. D. 1845, upon the application of William W. Woodworth, administrator of the said William Woodworth, and upon a surrender and cancellation of said original letters, for an imperfect or defective specification.)

Decease of Patentee.

And your orators further shew unto your honors, that afterwards, on or about the ninth day of February, A. D. 1839, the said William Woodworth, deceased, at the city of New York, the place of his then residence, and thereupon afterwards, on or about the 14th day of February, A. D. 1839, administration of the estate of the said William Woodworth, was duly granted by the Surrogate of the County of New York, unto William W. Woodworth, son, and one of the heirs of the said William Woodworth, and the said William W. Woodworth thereupon, entered upon the duties of the said trust.

Extension of the term.

And afterwards, on or about the twentieth day of July, in the year of our Lord eighteen hundred and forty-two, the said William W. Woodworth, in his said capacity, made application in writing to the Commissioner of Patents of the United States, setting forth that he desired an extension of the said letters patent, and the grounds thereof; and having paid the sum of forty dollars, to the credit of the treasury of the United States, and the said Commissioner, having caused public notice of such application to be given, according to law, and the Secretary of State, and the Commissioner of Patents, and the

Solicitor of the Treasury of the United States having met, as the board designated by law, for such purpose, on the first day of September, in the year last aforesaid, at the Patent Office in Washington, being the time and place appointed for such meeting in the said public notice, did then, and there, proceed to hear and consider the said application, and on divers days and times to which such hearing and consideration, were duly continued by adjournment, did hear and consider the same; and such proceedings were then and there had, that afterwards, on or about the sixteenth day of November, in the year last aforesaid, the said board did adjudge and certify in writing, that, upon hearing of the said matter, it appeared to their full and entire satisfaction, having due regard to the public interest therein, that it was just and proper, that the term of the said letters patent should be extended, by reason that the patentee, without neglect on his part, had failed to obtain, from the use and sale of his invention, a reasonable remuneration for the time, ingenuity and expense bestowed upon the same, and the introduction thereof into use; which said certificate having been duly signed by all the members of the said board, the Commissioner of Patents did thereupon, according to law, renew and extend the said patent, by making a certificate of such extension thereon, for the term of seven years from and after the expiration of the said term of fourteen years, for which the said patent was originally granted; which last mentioned certificate, together with the said certificate of the said board, having been duly entered of record, your orators crave leave to refer to duly certified copies thereof.

Nov. 16, 1842, Board Certified, &c.

And your orators further shew unto your honors that on or about the 2d day of January, 1843, your orator, William Woodworth, being satisfied of the truth of the facts stated, and set forth in the disclaimer next hereinafter mentioned, did make such disclaimer of all that part of the claim, which is contained in the said letters patent, which relates to the use of circular saws for reducing floor plank and other materials to a width, and the same having been filed and recorded in the Patent Office, your orators crave leave to refer to a certified copy thereof.

Disclaimer, 2d Jan., 1843.

All which was duly recorded in the Patent Office of the United States, as will more fully appear, by a copy of the record, duly authenticated, and ready to be produced in court, as your honors may require.

And your orators further shew to your honors, that the great utility and importance of this invention may the more fully appear, and the consequent rights and interests of the said inventor, and those who by inheritance or assignment, have acquired titles under him, that, on the 26th day of February A. D. 1845, the Congress of the United States passed an act, which was approved by the Pre-

sident, of which the following is a true copy, as will more fully appear by the records of the Patent Office, of the 3d of March A. D. 1845, viz: An Act to extend a Patent heretofore granted to William Woodworth.

Congressional Extension.

PATENT OFFICE, March 3d 1845.

Whereas the Congress of the United States have passed an act, of which the following is a true copy, viz:

An Act to extend a Patent heretofore granted to William Woodworth.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that the patent granted to William Woodworth, on the twenty-seventh day of December in the year one thousand eight hundred and twenty-eight, for his improvement in the method of planing, tonguing, grooving and cutting into mouldings, or either, plank, boards, or any other material, and for reducing the same to an equal width and thickness, and also for facing and dressing brick and cutting mouldings on, and facing several other substances, a description of which is given in a schedule annexed to the letters patent, granted as aforesaid, be, and the same is hereby extended for the term of seven years, from and after the twenty-seventh day of December, in the year one thousand eight hundred and forty-nine, and the Commissioner of Patents is hereby directed to make a certificate of such extension in the name of the administrator of the said William Woodworth, and to append an authenticated copy thereof to the original letters patent, whenever the same shall be requested by the said administrator or his assigns.

Approved, Feb. 26, 1845.

A true copy from the roll in this office.

R. K. CRALLE,
Chief Clerk.

DEPARTMENT OF STATE, March 3, 1845.

Whereupon in conformity with the requisition in said Act of Congress set forth, the Commissioner of Patents, on the 3d day of March, 1845, affixed to said letters patent his certificate in the words following, to wit:

Commissioner's Certificate of Extension.

In conformity, therefore, with the directions in the said act contained; I, Henry L. Ellsworth, Commissioner of Patents, do hereby certify, that the patent therein described, is by the said act extended to William W. Woodworth, administrator of said William Woodworth, for the term of seven years from and after the twenty-seventh day of December, in the year one thousand eight hundred and forty-nine; and this certificate of such extension is made on the original letters patent, on the application of William W. Woodworth, the administrator of the said William Woodworth.

In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed this 3d day of March, 1845.

[SEAL.] HENRY L. ELLSWORTH,
Commissioner of Patents.

And your orators further show to your honors, that the said William W. Woodworth, as administrator aforesaid, on the 8th day of July, A. D. 1845, did make a formal surrender of said original letters, in conformity with the laws provided in such cases, for the purpose of obtaining a renewal of the same, upon a specification accompanied with drawings and figures of the said machine, describing the said invention and pointing out in what it consists, in more full, clear, and exact terms, than was done in the original specification.

Surrender and Renewal.

Whereupon, on said 8th day of July, A. D. 1845, a renewal of said letters patent was made and granted from the Patent Office of the United States, in due form of law, upon said amended specification, figures, and drawings; and the said amended specification, with the explanatory drawings, and the said letters patent are, as will appear by the records of the Patent Office, duly authenticated copies of which shall be produced as your honors may direct, in the words and figures following to wit:

The Schedule referred to in these Letters Patent and making part of the same.

To all whom it may concern: Be it known, that the following is a full, clear, and exact description of the method of planing, tonguing and grooving plank or boards, invented by William Woodworth, deceased, and for which letters patent of the United States were granted to him on the 27th day of December, in the year one thousand eight hundred and twenty-eight; the said letters patent having been surrendered for the purpose of describing the same invention, and pointing out in what it consists, in more clear, full, and exact terms than was done in the original specification.

Amended Specification.

The plank or boards, which are to be planed, tongued or grooved, are first to be reduced to a width by means of circular saws, by reducing-wheels, or by any other means. When circular saws are used for this purpose, two such saws should be placed on the same shaft, on which they are to be capable of adjustment, so that they may be made to stand at any required distance apart; under these the board or plank is to be forced forward, and brought to the width required. This apparatus and process do not require to be further explained, they being well understood by mechanicians.

When what has been above denominated reducing-wheels, are used, these are to consist of revolving cutter-wheels, which resemble, in their construction and action, the planing and reducing-wheel to be presently described, these are to be made adjustable like the cir-

cular saws; but the latter are preferred for this purpose. The plank may be reduced to a width on a separate machine.

When the plank or boards have been thus prepared (on a separate machine), they may be placed on or against a suitable carriage, resting on a frame or platform, so as to be acted upon by a rotary cutting, or planing and reducing-wheel; which wheel may be made to revolve either horizontally or vertically, as may be preferred. The carriage which sustains the plank or board, to be operated upon, may be moved forwards by means of a rack and pinion, by an endless chain or band, by geared friction rollers, or by any of the devices well known to machinists for advancing a carriage or materials to be acted upon in machines for various purposes. The plank or board is to be moved on towards the cutting edges of the cutters or knives, on the planing cylinder, so that its knives or cutters, as they revolve, may meet and cut the plank or board in a direction contrary to that in which it is made to advance, the edges of the cutters are in this method prevented from coming first into contact with its surface, and are made to cut upwards from the reduced part of the plank towards said surface; by which means their edges are protected from injury by gritty matter, and the board or plank is more evenly and better planed than when moved in a reverse direction.

After the board or plank passes the planing cylinder, and as soon or fast as the planing cylinder has done its work on any part of the board or plank, the edges are brought into contact with two revolving cutter-wheels, one of which wheels is adapted to the cutting of the groove, and the other to the cutting of the two rebates that form the tongue. When the axis of the planing and reducing-wheel stands vertically, the grooving and tonguing-wheels are placed one above the other, and the plank edgewise between them. When the axis of the planing-wheel stands horizontally, these wheels are on the same horizontal plane with each other, standing on perpendicular spindles.

The grooving-wheel consists of a circular plate fixed on an axis, and having one, two, three, four, or more cutters, which are to be screwed, bolted, or otherwise attached to it, the edges of which cutters project beyond the periphery of the plate to such distance as is required for the depth of the groove, their thickness may be such as is necessary for its width, they are, of course, so situated as to cut the groove in the middle of the edge of the board, or as nearly so as may be required. The tonguing-wheel is similar in form to the grooving-wheel, but it has cutters on each of its sides or otherwise, so formed and arranged as to cut the two rebates which are necessary to the formation of the tongue. The grooving and tonguing-cutters, at the same time, and by the same operation, reduce the board or plank to an exact width throughout. When the axis of the planing-wheel is placed vertically, the knives or cutters may be made to plane two planks at the same time; the planks being in this case moved in contrary directions and so as to meet the edges of the re-

volving-knives or cutters. When the machine is thus constructed, a second pair of grooving and tonguing-wheels may be made to operate in the same way with those above described. A machine to operate upon a single plank or board, and having the axis of the planing-wheel placed horizontally, will, however, be more simple and less expensive than that intended to operate on two planks simultaneously.

Amended Specification.

In the accompanying drawing, Fig. 1, is a perspective representation of the principal operating parts of the machine, when arranged and combined for planing, tonguing, and grooving; and when so arranged as to be capable of planing two planks at the same time, the axis of the planing-wheel being placed vertically A A, is a stout substantial frame of the machine, which may be of wood, or of iron, and may be varied in length, size, and strength, according to the work to be done. B B are the heads of the planing-cylinder, and C C the knives or cutters, which extend from one to the other of said heads, to the peripheries of which they may be attached by means of screws. The knives, C C, with the faces forming a planing-angle, may be placed in a line with the axis J of the cylinder, or they may stand obliquely thereto, as may be preferred; but in the latter case, the edge should form the segment or portion of a helix; V represents a pulley near to the upper end of the axis J; and I, a pulley or drum, which may be made to revolve by horse, steam, or other motive power, and from which a belt may extend around the pulley V to drive the planing-cylinder, and other parts of the machinery; G is the carriage which is represented as being driven forward by means of a rack and pinion H; against this carriage the plank K, which is to be planed, tongued, and grooved is placed, and is made to advance with it. It will be manifest, however, that the plank may be moved forward by other means; as, for example, by an endless chain or band, passing around drums or chain-wheels, or by means of geared friction-wheels borne up against it. To cause the carriage and plank to move forward readily, there may be friction-rollers *f f f* placed horizontally and extending under them; the rollers *f f f* which stand vertically, are to be made to press against the plank and keep it close to the carriage, and thus prevent the action of the cutters from drawing the plank up from its bed in cutting from the planed surface upwards; they may be borne against it by means of weights or springs, in a manner well known to machinists. In a single horizontal machine, the horizontal friction-rollers may be geared and the pressure-rollers placed above them to feed the board with or without the carriages, a bed-plate being used directly under the planing-cylinder.

Fig. 2 is a separate view of the planing cylinder, with its knives or cutters, and Fig. 3 an end view of one of the heads. E E are the revolving cutters or tongueing and grooving wheels, and D D

whirls upon their shafts, which may be driven by bands or otherwise, so as to cause said wheels to revolve in their proper direction.

Fig. 4 is a side view of one of these wheels; Fig. 5 is an edge view of the tonguing wheel, and Fig. 6, an edge view of the grooving wheel, the latter being each shown with two cutters in place. The number of cutters on these wheels may be varied, but they are represented as furnished with four. The cutters may be fixed on the sides of circular plates, with their edges projecting beyond the periphery of said plate.

The edges of the plank, as its planed part passes the planing cylinder, are brought in contact with the above described tonguing and grooving wheels, which are so placed upon their shafts as that the tongue and groove shall be left at the proper distance from the face of the plank, the latter being sustained against the planing cylinder by means of the carriage or bed-plate or otherwise, so that it cannot deviate, but must be reduced to a proper thickness, and correctly tongued and grooved.

In Fig. 1, above referred to, only one carriage and one pair of cutter wheels are shown, it not being deemed necessary to represent those on the opposite side, they being similar in all respects.

Fig. 7 represents the same machine, with the axis of the planing cylinder placed horizontally, and intended to operate on one plank only, at the same time. A A is the frame; B B the heads of the planing cylinder; C C the knives or cutters attached to said heads. To meet the different thickness of the planks or boards, the bearings of the shaft or cylinder may be made movable by screws or other means, to adjust it to the work; or, the carriage or bed-plate may be made so as to raise the board or plank up to the planing cylinder. E E are the revolving cutters or tonguing and grooving wheels, which are placed upon vertical shafts, having upon them pulleys D D, around which pass belts or bands, from the main drum I, to which a revolving motion may be given by any adequate motive power.

From the drum I, a belt L, passes also around the pulley V, on the shaft of the planing cylinder, and gives to it the requisite motion. There may, in this machine, be a horizontal carriage, moved forward by a rack and pinion, in a manner analogous to that represented in Fig. 1; but in the present instance the plank is supposed to be advanced by means of one or two pairs of friction or feed rollers, shown at *f f*; the uppermost not being thought necessary to show in this drawing, as such are in common use. The lowermost of these rollers may be fluted or made rough on their surfaces, so as to cause friction on the under side of the plank. M M are pulleys on the axles of these lower rollers, which are embraced by bands N N, which also pass around a pulley O, on a shaft which crosses the frame A A, and has a pulley, T, on it, which is embraced by the belt P, on a pulley A, on the shaft of the main drum I; these bands and pulleys serve to

Amended Specification.

give motion to the feed rollers, as will be readily understood by inspecting the drawing; R R are guide strips used in place of the rollers, used for the same purpose, and also for bearing or friction rollers when the machine is vertical, to direct one edge of the plank, and against its opposite edge, any pressure may be used equal to the weight of the board or plank, when worked in a vertical position. One of the cutter wheels should be made adjustable, to adapt it to stuff of different widths.

The planing cylinder, and likewise the cutter or tonguing and grooving-wheels, may be constructed in the manner represented in figures 2, 3, 4, 5 and 6, and hereinbefore fully described. One of the heads of the planing-wheel may be made movable to accommodate its width to the width of the boards or plank to be planed.

The respective parts of this machine may be varied in size, as may also the velocity of the motion of the planing-cylinders and cutter-wheels; but the following has been found to answer well in practice. The planing-cylinder, having four knives or cutters, may be twelve inches in diameter, and may make two thousand and upwards revolutions in a minute. In a machine like that shown in Fig. 7, the main drum I, may be two feet in diameter, and may be driven with the speed of five hundred and upwards revolutions in a minute. The pulleys on the planing-cylinder, and on the cutter-wheels, may be six inches in diameter. The plank should be moved forward at the rate of about one foot for every hundred revolutions of the cutter-wheel; and, of course, the diameter of the feed rollers and of the pulleys by which they are turned, must be so graduated as to produce this result. The size and speed of the above parts of this machine, may be in some degree varied; but the above has been found to work well.

Having thus fully described the parts and combination of parts, and the operation of the machine for planing, tonguing, and grooving boards or plank, and shown various modes in which the same may be constructed and made to operate without changing the principle or mode of operation of the machine, what is claimed therein as the invention of William Woodworth, deceased, is the employment of rotating planes, substantially such as herein described, in combination with rollers, or any analogous device, to prevent the boards from being drawn up by the planes when cutting upwards, or from the reduced or planed, to the unplaned surface, as described.

And also the combination of the rotating planes with the cutter-wheels for tonguing and grooving, for the purpose of planing, tonguing and grooving boards, &c., at one operation, as described. And also the combination of the tonguing and grooving cutter-wheels for tonguing and grooving boards, and at one operation, as described.

And finally, the combination of either the tonguing or the grooving cutter-wheel for tonguing or grooving boards, &c., with the pressure rollers, as described, the effect of the pressure rollers in

these operations, being such as to keep the boards, &c., steady, and prevent the cutters from drawing the boards towards the centre of the cutter-wheels, whilst it is moved through by machinery. In the planing operation, the tendency of the plane is to lift the boards directly up against the rollers, but in the tonguing and grooving, the tendency is to overcome the friction occasioned by the pressure of the rollers.

WILLIAM W. WOODWORTH,
Administrator of William Woodworth, deceased.

Witnesses,
JAMES MILHOLLAND,
CHAS. M. KELLER.

The United States of America, to all to whom these Letters Patent shall come:

Whereas, William W. Woodworth, administrator of William Woodworth, deceased, of Hyde Park, New York, has alleged that said William Woodworth invented a new and useful improvement in machines for planing, tonguing and grooving, and dressing boards, &c., for which letters patent were granted, dated the 27th day of December, 1828, which letters patent have been extended (as will appear by the certificates appended thereto, copies of which are hereunto attached), for fourteen years from the expiration of said letters patent, and which letters patent are hereby cancelled on account of a defective specification, which he states has not been known or used before said William Woodworth's application; has made oath that he is and that said William Woodworth was a citizen of the United States, that he does verily believe that said William Woodworth was the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are therefore to grant, according to law, to the said William W. Woodworth, in trust for the heirs at law of said W. Woodworth, their heirs, administrators or assigns, for the term of twenty-eight years from the 27th day of December, one thousand eight hundred and twenty-eight, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said William W. Woodworth, in the schedule hereunto annexed, and is made part of these presents.

[SEAL.] In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the City of Washington, this eighth day of July, in the year of our Lord one thousand eight hundred and

forty-five, and of the Independence of the United States of America the seventieth.

JAMES BUCHANAN,
Secretary of State.

Countersigned and sealed with the seal of the Patent Office.

HENRY H. SYLVESTER,
Acting Commissioner of Patents.

1st Grant to Wilson. And your orators further show unto your that the said William W. Woodworth, administrator as aforesaid, by his deed dated the 14th day of March, 1845, and duly recorded in the Patent Office at Washington, conveyed and assigned unto the said James G. Wilson all the right, title, and interest of the said William W. Woodworth, administrator as aforesaid, in and to the said letters patent, and the franchises thereby granted and secured for the said term of seven years, enacted and extended by the said Act of Congress, to wit, for the term of seven years from and after the 27th day of December, A. D. 1849.

2d Grant to Wilson. And your orators further show unto your honors, that since the issuing of said new letters patent to William W. Woodworth, the said Woodworth, by his deed dated the 9th day of July, A. D. 1845, and recorded in the Patent Office at Washington aforesaid, granted, assigned, and confirmed unto the said James G. Wilson and his assigns, all the right, title, and interest, acquired by him the said Woodworth, in and by the issue of said letters patent, with the amended specifications as aforesaid.

Grant to the Bordens. And your orators further show unto your honors, that the said James G. Wilson, by his deed dated on the 21st day of June, A. D. 1845, and duly recorded in the Patent Office at Washington, granted, conveyed, and assigned unto Richard Borden and Jefferson Borden, both of Fall River, in the County of Bristol, and District of Massachusetts, all the right, title, and interest of him the said James G. Wilson, of, in, and to the said last extension granted by Congress as aforesaid for the State of Rhode Island (with the exception of the Island of Rhode Island in Newport County), and the whole of the County of Bristol, in the State of Massachusetts.

2d Grant to the Bordens. And your orators further show unto your honors, that since the issuing of the said new letters patent with the amended specification, the said James G. Wilson, by his deed dated on or about the 28th day of May, A. D. 1850, and duly recorded in the Patent Office aforesaid, granted, assigned, and confirmed unto the said Richard Borden and Jefferson Borden and their assigns, all the right, title, and interest assigned to them by said Wilson by his deed aforesaid, dated the 21st day of June, A. D. 1845, for and during the said last extended term, to wit, seven years from and after the 27th day of December, 1849.

And your orators further show unto your honors, that the said Richard Borden and Jefferson Borden, by their joint deed dated on or about the twenty-ninth day of June, A. D. 1849, and duly recorded in the Patent Office aforesaid, granted and assigned to Nathan Mason, of Providence, and State of Rhode Island, his administrators and assigns, the exclusive right (for the said second extended term of said patent, to wit, seven years from and after the 27th day of December, A. D. 1849) of constructing, and using, and vending to others to construct and use, twenty of said machines, constructed according to the letters patent issued as aforesaid, with the amended specification annexed, within the counties of Providence, Washington, and Kent, in the State of Rhode Island, and one and one-half miles from the east shore of Seekonk River, in the town of Seekonk, and State of Massachusetts, with the exception of a district of three and a half miles northeast and west, and two miles south of Pawtucket Bridge, in the Town of North Providence, in said County of Providence, which said district had been conveyed to the Pawtucket Planing Company in said North Providence; also within said district to dispose of the plank or other material dressed and prepared by the said machines; and the said Bordens, by their said deed, warranted and covenanted with the said Mason that they would not grant any license to any person whatsoever, to make, use, or vend to be used, any of said planing machines in and for the district aforesaid, and that they and their would not use nor construct any of said machines within the said district. 1st Grant to Mason.

And your orators further show unto your honors, that after the reissue of said letters patent with the amended specification aforesaid, the said Richard Borden and Jefferson Borden, by their joint deed dated the 13th day of June, A. D. 1850, and recorded in the Patent Office aforesaid, in consideration of the sum of one dollar (and for other good consideration) to them paid by the said Nathan Mason, granted and confirmed unto the said Mason and his assigns all the right and privileges assigned to him by their deed dated the 29th day of June, A. D. 1849, in and for the territory described in said deed dated the 29th day of June, A. D. 1849, and also the exclusive right to run twenty machines, constructed according to said Woodworth's patent, within the limits described in said deed or grant dated the 29th day of June, A. D. 1849, for and during the residue of said term of seven years. 2d Grant to Mason.

And your orators further show unto your honors, that said Nathan Mason, by his deed dated the 22d day of May, A. D. 1850, and duly recorded in the Patent Office aforesaid, in consideration of the sum of three thousand dollars (and for other good considerations), granted, assigned, and conveyed unto Charles D. Gould, of Albany, in the State of New York, an equal undivided half of all his the said Mason's right, title, Grant to Gould.

and interest and benefit to be derived from and through the said invention and letters patent and deeds above described, within the above-described territory, only excepting therefrom the rights and privileges sold to C. B. Maxin, in the town of Westerly; to Enoch Steere, in the town of Burrillville; and to Shearman, in the town of Glocester; and also excepting the use of the planing machines, consisting of three board and plank machines, and one clapboard machine then standing in the mill owned and occupied by said Mason, on the corner of Friendship and Potter Streets, in the city of Providence, and all in the State of Rhode Island.

And your orators further show to your honors, that the said Wm. Woodworth, and those lawfully claiming under him by inheritance or assignment, have erected and put in operation many machines in different parts of the country, by which a large amount of boards and plank have been planed, and tongued, and grooved, and dressed for use, to the great saving of labor, and to the great benefit of the public, whereby they might and would have derived to themselves great profit, but for the combined and illegal interference with the just exercise of their rights, as secured to them by the letters patent aforesaid.

Piracy.

And your orators further show to your honors, that William B. Dean, of Providence, aforesaid, is now using of said machines substantially the same in construction and operation as the planing machine in said letters patent mentioned, the exclusive right to make use and vend which is by law vested in your orators; and that the said defendant used the same for some time past, but how long in particular your orators are not informed and cannot set forth, but pray that the said defendants may discover and set forth the same, and thereby the said defendants did, and still doth infringe upon the exclusive privileges intended to be secured to your orators by said letters patent.

Action-at-law.

And your orators further show unto your honors, that heretofore, viz., at the term of this honorable Court, begun and holden at Boston, within and for the District of Massachusetts, on the 15th day of October, A. D. 1843, certain persons, named Washburn and Brown, impleaded one James Gould, in an action at law, wherein they declared against him, in a plea of trespass, on the case for a violation of the exclusive privileges of the said Washburn and Brown, secured to them by the letters patent and grant aforesaid, by using a machine substantially the same in its construction and mode of operation as the said planing machine invented by the said William Woodworth, and thereupon the said suit at law having been continued from said term to the term begun and holden at Boston, on the 15th day of May, A. D. 1844, the said Gould having pleaded that he was not guilty, and issue being joined thereon, the cause was committed to a jury, who returned a verdict therein on oath, and found that said Gould was guilty, and assessed damages in the sum of fifty dollars. And after-

wards, at the same term of said Court, a motion for a new trial in said cause having been made by the said Gould and overruled by the Court, judgment was rendered on said verdict for the said plaintiffs for the aforesaid damages and costs.

And your orators further show unto your honors, that at the term of this honorable Court, begun and holden at Boston, within and for the District of Massachusetts, on the 15th day of October, A. D. 1847, the said William W. Woodworth impleaded Rodolphus C. Edwards, James H. Edwards, and Cyrus Smith in an action at law, for a violation of the aforesaid exclusive privileges secured to the said William W. Woodworth, by using a machine substantially the same in its construction and mode of operation as the said planing machine invented by William Woodworth; and such proceedings were afterwards had that, in the said suit, the said Edwards and others having pleaded that they were not guilty in manner and form, &c., at the same, and issue being joined thereon at the same term, the said cause was committed to a jury, who returned a verdict therein upon oath that the said Edwards and others were guilty in manner and form, &c., and assessed damages therein at the sum of five hundred dollars. And afterwards, at a term held on the 15th day of May, 1848, at Boston aforesaid, a motion for a new trial of said cause having been made by the said Edwards and others, the same was overruled by the Court, and judgment was rendered on the said verdict in favor of said plaintiff, in said cause, for his damages and costs. 2d Trial.

And yet the said William B. Dean, well knowing the facts aforesaid, without any legal grant or license therefor, and in violation and in defiance of the patent rights aforesaid, did make and construct, and use, or cause to be made and constructed, set up, and put in operation, or vend to others to be set up and put in operation, a machine, or machines for planing, tonguing, and grooving, or either, separately or in any separate combination, planks and boards; which machines were and are, in all material parts, substantially like, and upon the plan of the machines invented, made, and put in operation by said Woodworth, and described in the said letters patent, and the specification and representation hereinbefore set forth.

And the said William B. Dean hath, ever since, contrived to construct and use, or vend to others to be used, said machines, and persists in so doing, and refuses to desist, though warned and requested so to do. Whereby great profit hath accrued to the said defendant, and great injury resulted to your orators. Your orators, cannot, with certainty, state the amount of the profits thus unlawfully derived by the defendant, but believe the same to be of the full sum of thousand dollars, and so charge the the fact to be; and pray that the defendant may be required to make a disclosure in the premises, and account for all such profits. Notice to Desist. Damage.

And your orators pray that the defendant may be compelled to

account for and pay over the income thus unlawfully derived from the violation of the rights of your orators, as above set forth, and may be restrained from any further violation of said rights; and

Prayer for Injunction.

that your honors would grant a writ of injunction, restraining the defendant from any further constructing, or causing to be constructed, using, or causing to be used, or vending to others to be used in any manner, said machine for dressing boards and planks, by planing, tonguing, and grooving, or either, or in any separate combination, and from using or vending any of the products of said machine, thus unlawfully constructed and put in operation, in violation of the rights of your orators, as aforesaid; and from infringing upon or violating the said patent in any way whatsoever; and that the machine or machines now in the possession, or use, or under the control of the defendant, and the products thereof may be forthwith destroyed, or delivered up to your orators; and that your orators may have such further relief, or that your orators may have such other relief, as the equity of the case may require, and to your honors may seem meet.

To the end, therefore, that the said defendant may, if he can, show why your orators should not have the relief hereby prayed, and may, upon his corporal oath, and according to the best and utmost of his knowledge, remembrance, information, and belief, full, true, direct and perfect answer make to the several interrogatories hereinafter numbered and set forth, requested to answer; that is to say:

1. Whether William Woodworth, at the time hereinbefore mentioned, was the inventor of such a machine as is hereinbefore charged?

2. Whether he made application to the proper department of the government, for a patent for such a machine?

3. Whether such letters patent were granted to him, as hereinbefore charged?

4. Whether the said William Woodworth died on or about the 9th day of February, 1839, as is hereinbefore stated?

5. Whether letters of administration of the estate of the said William Woodworth, were duly granted by the Surrogate of the City and County of New York, to William W. Woodworth, as is hereinbefore stated?

6. Whether the said William W. Woodworth applied to the Commissioner of Patents, for an extension of said letters patent, as hereinbefore stated?

7. Whether the Commissioner of Patents renewed, and extended the said patent, as is hereinbefore stated?

8. Whether such an Act of Congress was passed on the 26th day of February, 1845, as hereinbefore stated and set forth?

9. Whether the Commissioner of Patents certified such an extension of the said patent, as is hereinbefore stated?

10. Whether such renewal of said letters patent was made on the 8th day of July, 1845, as is hereinbefore stated?

11. Whether such renewal was made on such an amended specification, as is above stated?

12. Whether the said William W. Woodworth, administrator as aforesaid, executed and delivered to James G. Wilson, the deed of assignment, dated on or about the 14th day of March, 1845, as hereinbefore stated, or any similar, and what in particular?

13. Whether the said William W. Woodworth executed and delivered to the said James G. Wilson, the deed of assignment, dated on or about the 9th day of July, 1845, of the created and extended term of said patent by Congress, as hereinbefore in that behalf is stated, or any similar, and what deed?

14. Whether the said James G. Wilson executed and delivered to your orators, Richard and Jefferson Borden, the deeds as hereinbefore stated, or any similar and what deed?

15. Whether the said Richard and Jefferson Borden executed and delivered to your orator, Nathan Mason, the deeds as hereinbefore stated, or any similar and what deeds?

16. Whether the said Mason executed and delivered to your orator, Charles D. Gould, the deed hereinbefore stated, or any similar and what deed?

May it please your honors to grant to your orators a writ of subpœna, directed to the said William B. Dean, and commanding him to appear and make answer unto this bill of complaint, and to perform and abide by such order and decree herein as to the Court may seem required by the principles of equity and good conscience.

(Signed) WILLIAM W. WOODWORTH,
JAMES G. WILSON,
RICHARD BORDEN,
JEFFERSON BORDEN,
CHARLES D. GOULD,
By their Solicitors.
AMES & PAYNE,
NATHAN MASON.

United States of America, District of Rhode Island, *ss.*

On the eighteenth day of November, one thousand eight hundred and fifty, before me came Nathan Mason, complainant in the foregoing bill of complaint, and who has signed the same, and he being by me duly sworn, did on his oath depose and say, that he had read the said bill, and knew the contents thereof; that the same was true of his own knowledge, except as to the matters which are therein stated on his information and belief, and that as to those matters he believed it to be true.

(Signed) JOHN T. PITMAN,
Clerk Circuit Court.

Subpœna.

Rhode Island District, *sc.*

The President of the United States of America, to William

[L. S.] B. Dean, of Providence, in the State of Rhode Island, greeting:

For certain causes offered to our Circuit Court for the first circuit within and for the Rhode Island District. In Chancery. We hereby command and strictly enjoin you and each of you, that laying aside all other matters and things, and notwithstanding any other excuse, you and each of you personally appear at the Clerk's Office of said Court in Providence, on Monday, the sixth day of January next, being the rule day of said Court, and then and there full, true, and perfect answer make, upon your several corporal oaths, to the bill of complaint of Nathan Mason, of the City of Providence, in said district, planer of boards; Charles D. Gould, of Albany, and William W. Woodworth, of Hyde Park, as the administrator of William Woodworth, late of the City of New York, gentleman, deceased, &c., both of the Northern District of New York; James G. Wilson, formerly of the City of Philadelphia, and now of Hastings in the State of New York, gentleman; and Richard Borden and Jefferson Borden, both of Fall River, in the District of Massachusetts; now filed of record in the Clerk's Office of said Court, and to do and receive whatever our said Court shall order against you in the premises in this behalf: and hereof fail not, under the pains and penalties that may accrue in consequence of neglect thereof.

And the Marshal of said Rhode Island District, or his deputy, is hereby commanded to make service of this writ by reading the same to the said William B. Dean, or by leaving a true and attested copy hereof at their several last and usual places of abode twenty days before the rule day aforesaid.

Witness the Hon. Roger B. Taney, our Chief Justice, at Providence, this eighteenth day of November, A. D. 1850.

(Signed) JOHN T. PITMAN,
Clerk.

MEMO.—The appearance of the respondents in the suit is to be entered in the Clerk's Office on or before the return day of this writ, otherwise the bill may be taken *pro confesso* as against those not appearing.

United States of America, Rhode Island District, *sc.*

November 18th, 1850.

Made service of the within subpœna by leaving a true and attested copy hereof at the last and usual place of abode of the within-named William B. Dean, as commanded.

(Signed) CHARLES E. NEWELL,
Deputy U. S. Marshal.

Fees,

Service, . .	$2 00
Copy, . . .	50
2 m. travel, . .	20
	$2 70

And at said November Term of said Circuit Court, A.D. 1850, the following petition for injunction was filed with the foregoing bill in equity.

Petition.

NATHAN MASON, et al.
v.
WILLIAM B. DEAN.

To the Honorable Judges of the Circuit Court of the United States for the District of Rhode Island:

Respectfully represent, Nathan Mason, of Providence, in the County of Providence and District of Rhode Island; Charles D. Gould, of Albany, of the State of New York; William W. Woodworth, of Hyde Park, in the State of New York, as he is administrator of the estate of William Woodworth, deceased; Richard Borden and Jefferson Borden, of Fall River in the State of Massachusetts, and James G. Wilson, formerly of Philadelphia, in the State of Pennsylvania, now of Hastings, in New York, that they have filed before the Circuit Court of the United States, for the District of Rhode Island, against William B. Dean of said Providence.

Wherein they allege that they are the owners of certain exclusive patent rights, in a machine called Woodworth's Planing Machine. And that the said Willian B. Dean hath infringed, and is infringing the same.

And have prayed for an injunction to issue against the said William B. Dean, enjoining him against any further infringements of said rights, and they have also in said bill alleged that their rights aforesaid have been established by a judgment at law.

To the end, therefore, that the said William B. Dean may show cause if he have any, why such injunction should not issue against him, and that such injunction may issue:

May it please your honor to cause a notice to be served upon said William B. Dean, requiring him to appear before the Circuit Court of the United States, now holden at Providence, within and for the District of Rhode Island, on the 26th day of November, A.D. 1850, and make answer to this petition.

(Signed) WILLIAM W. WOODWORTH,
JAMES G. WILSON,
RICHARD BORDEN,
JEFFERSON BORDEN,
CHARLES D. GOULD,
By their Solicitors.
AMES & PAYNE,
NATHAN MASON.

Notice.

Rhode Island District, *sc.*

The President of the United States, to the Marshal of said District, or to his deputy, greeting:

You are hereby required to summon forthwith William B. Dean of the City and County of Providence in said Rhode Island District, planer, to appear before the United States Circuit Court, for said Rhode Island District, now holden in Providence, by adjournment, on the 26th day of November inst., at 10 o'clock, A.M., to show cause if any he has, why an injunction should not issue against him, as prayed for in the petition of Nathan Mason, of said Providence, in the District aforesaid, planer of boards; Charles D. Gould, of Albany, and William W. Woodworth, of Hyde Park, both in the Northern District of New York; James G. Wilson, of the City of Philadelphia; and Richard Borden and Jefferson Borden, both of Fall River, in the District of Massachusetts, and have you there this precept, with your doings thereon.

Witness, the Hon. Roger B. Taney, our Chief Justice, at Providence, this eighteenth day of November, A.D. 1850.

(Signed) JOHN T. PITMAN,
Clerk.

Marshal's Return.

United States of America, Rhode Island District, *ss.*

November 18th, 1850.

Made service of the within notice, by leaving a true and attested copy hereof, at the last and usual place of abode of the within-named William B. Dean, as commanded.

(Signed) CHARLES E. NEWELL,
Dept. U. S. Marshal.

Fees,

Service,	$2 00
Copy,	50
Travel, 2 m.,	20
	$2 70

A. G. Sprague's Affidavit.

Albert G. Sprague, of the City of Providence, Rhode Island, being duly cautioned and sworn, deposes and says, that he is acquainted with all the parties to this suit, but that he has no interest in it. That he is theoretically and practically acquainted with machines and machinery. That he is acquainted with the letters patent of Wm. Woodworth, issued Dec. 27th, 1828, reissued July 8th, 1845; and with the planing machines constructed under it. That he on the 25th day of November, 1850, visited the planing mill owned and occupied by the defendant in the City of Providence, and that he then, and there, saw three Woodworth planing machines.

(Signed) ALBERT G. SPRAGUE.

Providence, Nov. 25th, 1850.

Sworn to, before me,

(Signed) JOHN T. PITMAN,
Clerk.

Ephraim Martin's Affidavit.

The undersigned is the person named in a certain agreement, dated the ninth day of last August, and signed by Nathan Mason; and the following is a true statement in relation to said agreement.

In the month of March or April last, I first had a conversation with Mr. Mason, in relation to purchasing his planing mills, which he said he was anxious to sell; his price was eight thousand dollars; I offered him seven thousand five hundred dollars. Subsequently we had several conversations about the matter, but nothing definite was concluded upon until the ninth of August; when, after considerable banter, he concluded to sell for the sum, and on the terms and conditions specified in the agreement referred to above; the reason for deferring giving possession until the thirtieth of September, was to give Mr. Sprague, the tenant of the mill, opportunity to finish in part contracts for planing then on hand.

After verbally arranging the details of the trade, I suggested to Mr. Mason, that the trade was of some importance, as others might and probably would be interested in it; a memorandum of it had better be made, to which he consented and it was accordingly done. I left the city the next day, was absent several days; after my return, Mr. Mason called at my house to see me, and in the course of the conversation then had about the trade, he said there was some talk that I was to purchase for Mr. Pike. I told him I had not, he then said he hoped I would not let Mr. Pike or Mr. Dean have it, that if I had got any advantage, he hoped I would share it with him, as he could help me more than Mr. Dean could; and then proposed, if I would do so, I should have a situation with him, and an interest in the business of the mill. I said I would think of it, and would consult with Mr. Childs, with whom I was talking about running the mill.

Sometime after, in conversation with Mr. Dean about the Woodworth Patent; Mr. Dean remarked, that Mr. Mason asked an exorbitant price for the right to run his machines. I said he had better purchase Mason's mill; that I had Mason's agreement in writing to sell, that the agreement gave the right to use four machines at the same time, that two machines could run in his mill, and two in the Friendship Street mill—that the engine in Mason's mill was not sufficient to run more than two machines as they ought to run. Mr. Dean wished to see the agreement, and I gave him a copy, he said he would think of it, he asked me upon what terms I would transfer it. I did not then tell him.

I will here state, that nothing was said by Mr. Mason, as to where the patent was to be used, neither was there any complaint made to me by him about the number of machines to be allowed to run, until sometime after the date of the contract.

I met Mr. Mason on Broad Street, the morning after the burning of Tallman & Bucklin's mill, he then said he supposed planing mills

were worth more than they were at the time we traded, but said he should not back out. I said I did not think he would, he then remarked that there was some talk by persons about the mill, as to the number of rights he had agreed to convey; said he did not think could give a deed for more than two. I said there is nothing about two rights in the trade, that he would not be asked to convey any more than the agreement required, and I thought not much less.

After several conversations with Mr. Dean in relation to the matter, we finally, upon the 23d of September, agreed upon the terms of the transfer, and I was directed to have it made to Bradford Allen, giving as a reason for so doing, that if there was any reluctance on the part of Mr. Mason, he could best manage as he owned land in front and rear of the mill; the transfer was made at Mr. Allen's office, I receiving the consideration from Mr. Dean.

(Signed) EPHRAIM MARTIN.

Providence, *sc.* In the City of Providence, this 28th day of November, 1850, appeared Ephraim Martin, and made oath, that the aforewritten statements by him subscribed are true according to the best of his information, knowledge, and belief.

Before me,

(Signed) JAMES C. HIDDEN,
Justice of the Peace.

Ephraim S. Jackson's Affidavit.

I, Ephraim S. Jackson, of Providence, questioned on behalf of William B. Dean, declare and say, that on the 27th of Sept. last, by request of Mr. Wm. B. Dean and Mr. Bradford Allen, I went with him to the office of Mr. Nathan Mason, as a witness to an interview between them, Mr. Allen having become, as I had understood from both Mr. Allen and Mr. Dean, the holder for and on account of Mr. Dean, of a contract made by said Mason with Ephraim Martin, or his order or assigns. That I was present at the interview between them, when Mr. Allen informed Mr. M. that he held the said contract, that he wished Mr. M. to make a conveyance or conveyances to him in pursuance of it, and that he, Mr. Allen, should be at Mr. Mason's office on the Monday following, prepared to fulfil the contract on his part; that said Mason, though at first he wished Mr. Allen to wait until Tuesday, as a day more convenient for Mr. M., at length promised to have the conveyances made as requested, stating to Mr. Allen that he should make conveyance only of a right to run two machines; to which Mr. Allen replied that he expected and should require a conveyance in conformity with the contract, and nothing more; and this, as he understood it, entitled him to a right to run as many as were in Mason's establishment at the date of the contract, that is, four.

And further, I declare and say, that on Monday, the 30th of

September, by request of both Mr. Dean and Mr. Allen, I, at 11 o'clock A.M., went with them to the office of Mr. Mason, where, as I understood them, Mr. Mason had conditionally agreed to be at that hour, they wishing me to be present as a witness to a tender by Mr. Allen, should circumstances require it, of the money required by the aforesaid contract to be paid by Mr. Allen, to make which tender Mr. A. had furnished himself with gold coin. That from 11 o'clock to 12¼, we all three remained at the office without seeing Mr. Mason. That at 5 o'clock, when, as Messrs. Allen and Dean informed me, Mr. Mason had promised unconditionally to be there, we all three went again to Mr. M.'s office, Mr. Allen having the gold coin aforesaid with him, and there remained until about 6 o'clock, when, Mr. M. not appearing, we went to his house, from his house to his lumber-yard, from there again to his house, from there to another house in Sheldon Street, to which we were directed, and from there back to his house; when, despairing of finding him, we separated, not having seen him, Mr. Allen surrendering to Mr. Dean the gold coin which he had had through the day in his possession for the purpose aforesaid.

And further, I say, that I understood throughout this day, as I had understood previously from both Mr. Allen and Mr. Dean, that Mr. Allen was acting in this matter solely as the friend and agent of Mr. Dean, with the purpose of immediately transferring to Mr. Dean whatever Mr. Mason should convey to him in fulfilment of the contract aforesaid.

And further, I declare and say, that some three or four weeks after the 30th of September, I went, at the request of Messrs. Allen and Dean, with them to the office of Messrs. Ames and Payne, for the purpose of seeing the conveyances which, as Mr. Allen informed me, Mr. Mason had told him he could see there. That at the office we saw Mr. Ames, who stated to us that the papers inquired for had been there, but had been taken away that an alteration of the draft might be made (so as to give a right to run four machines instead of two, as originally drawn), an alteration, Mr. Mason, by his advice, had consented to make. They might, he also said, have been returned, but he, in the absence of Mr. Payne, could not then find them. Mr. Ames also stated that the right to run these machines was, by the conveyance, restricted to the Mason's Planing Establishment; and in answer to Mr. Allen's protest against any restriction of this sort, as a departure from the contract, said, in effect, that it was consistent with the contract, as they construed it. The instruments were not found or shown to us, or either of us, at this time, nor since, to the knowledge or belief of this affiant.

(Signed) EPHRAIM S. JACKSON.

In presence of

(Signed) BRADFORD ALLEN.

Providence, *sc.* In the City of Providence, this 28th day of November, A. D. 1850, appeared Ephraim S. Jackson, and made oath that the aforewitten statements by him subscribed are true, according to the best of his knowledge, information, and belief.

Before me,

(Signed) JAMES C. HIDDEN,
Justice of the Peace.

Bradford Allen's Affidavit.

I, Bradford Allen, of Providence, questioned on behalf of William B. Dean, declare and say, that I have not now, and that I at no time have had, any pecuniary interest in the contract assigned to me on the 23d of September, 1850, by Ephraim Martin, a copy of which, with said Martin's assignment thereon, marked A, and annexed to the answer of said Dean, is now exhibited to me. That I received an assignment of said contract, as aforesaid, at the request of said Dean, as an act of friendliness to him, and simply as his agent or trustee, he professing to believe that Mr. Mason would more readily make a conveyance to me, who, as a lessor of said Mason, could stop his works at a month's notice, than to him, Mr. Dean, a rival in trade. That the consideration for said assignment to me was paid in cash and notes to the amount of one thousand dollars, by said Dean, without assistance directly or indirectly from me, and paid in my presence. That at any moment after I received said assignment, I should, at the request of said Dean, have assigned it to him, or to any one whom he might have designated, the intent of myself and of the said Dean being, that as soon as the said Mason should have conveyed to me, I should convey to the said Dean; and that immediately after I had called upon Mr. Mason, and given him notice of the transfer to me, which I did on the 27th of September, I delivered the said contract to said Dean, as in fact his property, by whom, as I suppose, it has been since kept.

And further, I declare and say, that having learned from Mr. Nathaniel Searle that he was preparing by Mr. Mason's direction, some conveyances for me, which I might see by calling at his office, I, in company with Mr. Dean, called at said office on the morning of the 30th Sept., for the purpose of looking at said papers. That we saw there Mr. Mason himself, who declined allowing me to read them, saying he would take them for some purpose he named, and would meet me at his office at 11 o'clock A.M. if possible, but certainly at 5 o'clock P.M., assigning as a reason for naming these hours, that a wedding was to take place which would occupy much of his time that day.

And further, I declare and say, that the statements contained in the affidavit of Ephraim S. Jackson, this day subscribed by him in my presence, and which I have examined, respecting my interviews with Mr. Mason on the 27th Sept., and respecting my efforts on the

day and evening of the 30th to see Mr. Mason, are correct statements, and are consistent with my own knowledge and recollection of the facts, as also are the statements of said Jackson respecting what took place at the office of Messrs. Ames and Payne at a later day.

And further, I declare and say, that my purpose in endeavoring to find Mr. Mason, on the 30th of September, was to obtain from him a conveyance, in pursuance of the aforesaid contract; that had I seen him, I should have demanded such a conveyance, tendering him in gold coin, the amount of money to which he would have been entitled, which gold coin I had received in exchange for bank-bills, which Mr. Dean had, himself, procured and delivered me in the morning, and which coin I had with me throughout the day and evening, until I abandoned the hope of seeing Mr. Mason, when I returned said gold to Mr. Dean; and that it was my purpose and intent, as soon as I obtained a conveyance from Mr. Mason, at once to assign and transfer all my rights under it to the aforesaid Dean.

And further, I declare and say, that no conveyance from said Mason has ever been either tendered or shown to me—said Mason having only once spoken to me on the subject, and then only in reply to a question from me; a week or two after the 30th, I asked him, in effect, why he did not make the conveyances, and he replied, that they were made, and I could see them at Mr. Ames' office—whither I went, but did not there find them, Mr. Ephraim S. Jackson and Mr. Dean accompanying me.

And further, I declare and say, that I ever have been and still am willing and ready to adopt any course which the said Dean shall prescribe, in order to secure the benefits of the purchase by him, as aforesaid, made of the aforesaid Martin in my presence.

(Signed) BRADFORD ALLEN.

Providence, *sc.* In the City of Providence, this 29th day of November, A.D. 1850, appeared Bradford Allen, and made oath that the aforewritten statements, by him subscribed, are true, according to the best of his knowledge, information, and belief. Before me,

(Signed) JAMES C. HIDDEN,
Justice of the Peace.

Nathan Mason's Affidavit.

I, Nathan Mason, of the City of Providence, petitioner for an injunction against William B. Dean, depose and say:

That, being owner of a certain planing mill, and largely engaged in the planing of lumber in this city, I was compelled to protect my business, and to avoid litigation, to purchase the exclusive right of using the Woodworth Planing Machine in this city, for and during the term of seven years, from 27th December, 1849, for which I paid a large and valuable consideration: that directly after making

the purchase, I endeavored to make sale of a portion of the rights to Talman and Bucklin, and W. B. Dean the defendant, but that nothing was done until about the first of April last, when this petitioner was informed that the said Talman and Bucklin, and W. B. Dean and others had formed a combination against him to resist his claims under said patent, and that owing to the difficulties thereon in his way by this combination, this defendant was subjected to much anxiety and expense, and finally on the 22d day of May last he made a sale or transfer of one-half his rights in said city, excepting as to the use of four machines, to be used in his planing mill, on Potter and Friendship Streets (this point, as to where the said machines were to be used, having been discussed and settled at the time of making the agreement), the language used having been inserted in place of that which was more restrictive, on the suggestion, that if the present mill was burned, I should not be allowed by the city authorities to rebuild it on the same spot. This agreement, a copy of which is annexed, marked Exhibit A, was made *bona fide* at the time, and for the consideration therein expressed, and was signed and delivered to the said Gould, in presence of Albert G. Sprague of this city.

And this deponent further says that after making this sale to the said Gould, notice was given to the several parties using machines in this city, that they were violating the legal rights of this deponent and the said Gould, which proving of no avail, steps were taken to vindicate the legal rights by filing in this honorable court a bill and affidavits against Talman and Bucklin to restrain them from the farther use of the machines then in operation at their mill in said city, they being selected as the most prominent in this connection from their having been the owners of the right during prior terms, and having had injunctions granted in their favor for similar infringements.

It was at this time considered by the said Dean, with whom negotiations were pending, that if it were adjudged by this honorable court, that if parties who had erected machines during former terms had not, by force of law, any rights during this, he would either stop using, or purchase the privilege of using the machines then used by him.

And this deponent further says that he has had frequent and long-continued negotiations with the said Dean, the respondent, relative to a purchase and sale of the privileges under said letters patent, and that since the decision in the case of Talman & Bucklin, in June last, they have not differed as to the value and price to be paid by the said Dean, but simply as to the mode of payment; this deponent with the said Gould requiring that the said Dean should, thinking him to be insolvent, furnish a suitable guarantee in addition to his own responsibility, which guaranty he said he would furnish, and mentioned the names of two persons, either of whom was regarded as suitable. And he also offered to pay for the said rights a larger

sum, provided he might pay it in yearly instalments, an offer to which this deponent subsequently acceded, but neither of which has he attempted to carry out.

And this deponent further says, that the price agreed upon between them was just and equitable, and was more favorable than the terms on which he had purchased rights to a similar extent some three years before, when the business was less valuable than now, owing to more mills being then in operation.

And this deponent further says, the reason that they did not commence proceedings sooner was owing to the open avowal of the defendant, that he was engaged in the combination against the rights of this deponent, tested in the case of Talman & Bucklin; and from the plausible language to this deponent, in the way of negotiation, they were led to believe that they would be able to make a settlement with him without resort to further litigation, but when they learned that he intended to avail himself of an article of agreement between himself and one Ephraim Martin, they determined at once, and set about to obtain the aid of this honorable court in obtaining their rights.

And this deponent further says, that he has for a year past been very desirous of retiring from business, and that with this object he has offered the planing rights to those engaged in that business in this city at very low prices, and has also offered his planing mills with the valuable business connected with them, also at low prices, and that during the spring and early summer one Ephraim Martin, of Providence, and this deponent, had negotiations relative to a purchase and sale of the mills in this city, owned by this deponent, on Potter and Friendship Streets; the said Martin stating that he was desirous of personally engaging in business, and that he was planning with a friend of his, a Mr. Child, provided they could effect a purchase of that business connected with the mills owned and partially occupied by this deponent. That while these negotiations were in progress this deponent made the arrangement with the said Gould as aforesaid, and commenced preparing for the case of Talman & Bucklin; and the said Martin, having full knowledge of the position of all parties concerned, took pains to find favor with this deponent, by obtaining information and furnishing affidavits on which the bill in that case was founded. And subsequent to the decision in that case at the time the agreement was made with the said Martin it was specifically agreed that he, said Martin, would aid this deponent in effecting a sale to the said Dean, and that the transaction with said Martin should be kept secret for about two months, by which time an arrangement with said Dean could be consummated.

In return this deponent offered to sell to the said Martin his planing mills and machinery, with the rights appertaining to them as he had reserved them in his transaction with said Gould on more favorable terms by 250 dollars than he had ever been willing to do

before, which offer and conditions the said Martin agreed to accept; the conversation continued, the said Martin assuring this deponent that the said Dean would be compelled and would purchase of him, and that he would aid in producing that result: the attention of this deponent was called to some other business, when the said Martin suggested, that as the transaction concerned another, and as it was to be kept secret, he would like to have a short memorandum of it which he would draw—he did so, and it was hastily signed by this deponent, who then gave his attention to this other business.

And this deponent further says, that he always regarded and intended this transaction as one with the said Martin personally, and not assignable before the deeds were delivered, and he has not regarded as valid any transfer of it to any other party than to Mr. Child, but finding that he had got into difficulty, he was willing to concede certain points for the purpose of getting out of it; and with this object he has talked with W. B. Dean the defendant, Bradford Allen and E. S. Jackson, though he denies the correctness of the statements made by either of them, and has prepared deeds and conveyances for the purpose of making transfers in accordance with his agreement with said Martin, but learning and believing that they with others unknown to your deponent, were confederating and combining together to deprive him of his just rights, he has declined to convey to any one except to the said Ephraim Martin, on the terms and conditions proposed.

And this deponent further states, that to sustain the view taken by your defendant, would enable him to establish two planing mills in this city, to do the entire business of this kind done in it, and paying but very little more for this valuable privilege than the value of the mills and real estate so often referred to.

(Signed) NATHAN MASON.

Dec. 10th, 1850.

Sworn to, before me,

(Signed) JOHN T. PITMAN,
Clerk.

Exhibit "A."

Whereas, letters patent were issued under the great seal of the United States to William Woodworth, now deceased, December 27th, 1828, and reissued 8th July, 1845, for an improvement in the machine for planing, tonguing, and grooving boards, &c.

And whereas, the said letters patent were extended for a term of seven years from their expiration, to wit, the 27th day of December, 1842, under the eighteenth section of the Act to promote the progress of the useful arts, approved July 4th, 1836.

And whereas the said letters patent were further extended by special Act of Congress, approved 26th February, 1845, for the term of seven years from the expiration of the first term, to wit, 27th December, 1849.

And whereas by a series of deeds, to wit, one from William W. Woodworth, administrator of William Woodworth, patentee to James G. Wilson, dated March 14th, 1845, and from the said James G. Wilson to Richard Borden and Jefferson Borden, dated 21st June, 1845, and from the said Richard Borden and Jefferson Borden to Nathan Mason, of Providence, R. I., dated June 29th, 1849, the said Nathan Mason became invested with the full and exclusive right and privilege of making, using, and vending the said invention secured by the said letters patent during the last above-recited extended term of seven years, authorized by the Act of Congress, approved February 26th, 1845, within and throughout "The Counties of Providence, Washington, and Kent in the State of Rhode Island, and one and one-half miles from the east shore of Seekonk River, in the town of Seekonk, County of Bristol, and State of Massachusetts (with the exception of a district of three and a half miles south of Pawtucket Bridge in the town of North Providence, in the said County of Providence, which has been conveyed by the said Bordens to the Pawtucket Planing Company, in said North Providence) also within the said district, to dispose of the plank or other things dressed and prepared in said machines," as will fully and at large appear by reference to the several conveyances, or the record thereof on the records of transfers at the Patent Office at Washington.

Now know all men, by these presents, that I, Nathan Mason, in consideration of the sum of three thousand dollars to me satisfactorily paid, by Charles D. Gould of Albany, New York, and in further consideration of the acts and services to be done and performed by the said Charles D. Gould, in aiding, in maintaining and enforcing the rights and privileges secured by the said letters patent, and deeds above recited; I do hereby transfer, assign, and set over to him, the said Gould, his heirs and assigns, one equal undivided half of all my right, title, and interest, and benefit to be derived from and through the said invention, letters patent, and deeds above recited, within the above-described territory, only excepting therefrom the rights and privileges sold to C. B. Maxin, in the town of Westerly, to Enoch Steer, in the town of Burrillville, and to Sherman in the town of Glocester, and also excepting the use of the planing machines consisting of three plank or board machines, and one clapboard machine now standing in the mill, owned and occupied by said Mason, on the corner of Friendship and Potter Streets, in the City of Providence, and all in the State of Rhode Island.

In witness whereof, the said Mason has hereunto set his hand and seal this twenty-second day of May, eighteen hundred and fifty.

(Signed) NATHAN MASON, [L. S.]
CHARLES D. GOULD.

Witness,
(Signed) ALBERT G. SPRAGUE.

(Received and recorded Nov. 25th, 1850.)

Charles D. Gould's Affidavit.

Charles D. Gould, of the city of Albany, New York, being duly sworn, doth depose and say, that on the twenty-second day of May, 1850, he purchased of Nathan Mason, of Providence, Rhode Island, one equal, undivided, half interest of the rights and privileges then held by the said Mason, under the letters patent of the United States, granted to William Woodworth, deceased, for an improvement in the machine for planing boards, &c., dated Dec. 27th, 1828, during the remainder of the term of extension, granted by Act of Congress Feb. 25th, 1845; excepting only such as attached to four certain machines, which were to be used as they then were, in a planing-mill, located on the corner of Potter and Friendship Streets, in Providence; but in the event of a burning of the said mill, the same number and kind were to be placed in the mill erected to supply its place; which mill was said to be owned by Nathan Mason, and to be leased to Nelson Sprague, and another name not known to deponent.

That soon after this purchase, as above stated, this deponent left with a person then at work in the planing-mill of W. B. Dean, the defendant in this case, a letter, of which the annexed is a copy; the receipt of which was subsequently acknowledged by said defendant to this deponent. And this deponent further says, that afterwards he had several conversations with said W. B. Dean, relative to the said rights and privileges, the object of the said Gould being to avoid further litigation, by inducing the said Dean to make a purchase of the privilege of using the planing machines, then in his planing-mill; and that the only reason given by the said Dean was the uncertainty as to the ownership of the exclusive right in said city of Providence, the decision in the case of Talman and Bucklin not having then been made; that subsequent to that decision, the said Dean expressed a wish to purchase without further trouble, stating that he had seen Mr. Mason, and thought he could comply with our wishes as to an indorser, and said that there was a person, whose name, I think, was Jones—a relative, who would indorse his paper; he stated that he was satisfied with the price, but would prefer paying by the year, an annual sum, even though it were larger, than a gross sum to be given in notes at once. And, further, this deponent says, that on inquiry as to the credit and standing of the said W. B. Dean in this city, he was informed that although he was a good citizen, but that his credit was doubtful, which rendered him desirous of obtaining an indorser on such paper as he might take of him, and that he may be restrained by injunction from further damaging your petitioner, or be directed to give a bond to secure the damages and costs, to which your petitioners are now subjected.

And this deponent further says, that he has had frequent conversations with Ephraim Martin, of Providence, in which the said Mar-

tin was informed of the purchase of the said Mason, as aforesaid; and that the value of the rights in this city was often the subject of their conversation, so that the said Martin was fully aware that he could not purchase rights or privileges to use the planing-machine in other parts of this city, without the consent of this deponent, which was never given; although they have conversed about a purchase, by the said Martin, of a portion of the rights held by himself and said Mason, and further this deponent saith not.

(Signed) CHARLES D. GOULD.

Dec. 10th, 1850.

Sworn to before me,
JOHN T. PITMAN,
Clerk.

Copy of Letter.

PROVIDENCE, May 24, 1850.

W. B. Dean,

Sir: I wish you to take notice that you are now using the Woodworth Planing Machine, in violation of my rights to use the said invention. Having obtained them at great cost, and believing them to be good, you must not be surprised if I take decided measures to obtain damages for the use of them, and to restrain further use of them.

Respectfully yours,
(Signed) CHARLES D. GOULD.

Albert G. Sprague's Affidavit.

I, Albert G. Sprague, of the city of Providence, do solemnly depose and say, that I am one of the lessees of the mill of Nathan Mason, in this city, and have been so since early last spring; that during this time the said Mason has made frequent attempts to sell to me the said mill and machinery, with the rights appertaining thereto, which I have steadily declined to do; for, although I regard the right of using the planing machines and the business connected with them as very valuable, yet the condition and size of the buildings are such as not to render them desirable to me; and I have always understood that in selling the mill and machines, Mr. Mason intended to confine the use of the machines to the building where they are at present located.

That I have some knowledge of the purchase by the said Gould of his interest in the Woodworth patent in this city, having been the subscribing witness to the deed of transfer, which was made and delivered in May last, on or about the day it bears date.

That I have had several conversations with Ephraim Martin of this city, relative to his contract or agreement with said Mason; he, the said Martin, expressing a desire that I should take part with him in business under it. I declined doing so. In his conversations I

did not understand him as claiming to have liberty to use the machines anywhere else than where they were then located, but to be used there by him; conversations to this effect continued until about the last of September, when he said that he could not buy the mill, and that he should sell the paper if he could find any one to buy it.

(Signed) ALBERT G. SPRAGUE.

Dec. 10th, 1850.

Sworn to before me,

JOHN T. PITMAN,
Clerk.

Marvin M. Andrews' Affidavit.

I, Marvin M. Andrews, of the City of Providence, under oath declare and say, that in the early part of the month of September last past I was engaged in running the engine used in the Planing Mill owned by Nathan Mason, on the corner of Potter and Friendship Streets in this city, and had then a conversation with Ephraim Martin about a purchase by him of the mill, where we then were, with the planing machines, engine, &c., of the said Mason. That, in the course of this conversation, the said Martin remarked that he had tried to purchase of the said Mason the privilege of using other machines, but that he could not; and that he had only bought the machines then in the mill, which were to be used there by him; that he intended to continue the business right along, and that he wished this deponent to continue with him in the pursuit he was then engaged, that of taking care of the engine and machinery; this deponent inquired of him the pay; the said Martin replied, that it would be paid as then, every Saturday night.

And this deponent further says, that in another conversation had with said Martin, he gave as a reason why he did not take immediate possession, was that he was waiting for the said Mason to complete his negotiation with William B. Dean, defendant in this case, for the use of the planing machines then in use by the said Dean in this city.

And this deponent further says, that in the months of August and September the said Martin often came to the mill, when this deponent was at work, and looked about as though he was examining into its condition; that he had frequent conversations with him, in some of which he stated that his object in making the purchase was to get into business; that one or two others, one of them a Mr. Child, who were to be engaged with him, were merely to furnish the capital, and he was to conduct the business; that he has often heard him speak of running the machines where they then were, but did not hear him in any way claim to have the privilege of using machines elsewhere until about the first of October, when he talked about selling his contract, and of using the machines elsewhere, if he could. And this deponent further says, that he has heretofore been in the employ of

the said Ephraim Martin, and has known him for several years, and that this was probably the reason why the said Martin spoke so freely with him. And this deponent further says, that the said Martin has often, in the aforesaid conversations about the mill machinery, or inquired where the partner of said Mason was, referring to the said Gould, whom he appeared desirous of seeing.

(Signed) MARVIN M. ANDREWS.

Dec. 10th, 1850.

Sworn to before me,

(Signed) JOHN T. PITMAN,
Clerk.

Answer of William B. Dean.

Rhode Island District, *sc.*

CIRCUIT COURT, Dec. 2, 1850.

In re, NATHAN MASON et al.
v.
WILLIAM B. DEAN. } For Injunction.

The said William B. Dean, showing cause why an injunction as prayed for should not be granted against him, respectfully represents:

That some time in August last he learned from Mr. Ephraim Martin that he had purchased of Mr. Nathan Mason his, the said Mason's, planing mill, with a right to run four planing machines; and that he, the said Martin, was willing to sell his contract to him this defendant. That, from time to time this matter was the subject of negotiation between this defendant and said Martin; this defendant at one time believing he had completed a bargain for the contract at the price of two hundred and fifty dollars, and under this impression remained for some weeks. That afterwards he learned from said Martin that he, Martin, did not consider the bargain concluded, whereupon the negotiation was renewed, which resulted finally in this defendant's offering Mr. Martin for a transfer of the contract (a copy of which had been exhibited to him) the sum of one thousand dollars; this defendant having become satisfied that his interest would be promoted by so doing. This offer Mr. Martin finally accepted, and by this defendant's request made an assignment of said contract (of which a copy marked *A* is hereto appended) to Mr. Bradford Allen, this deponent paying the consideration therefor, $100 in cash, $100 in said Martin's own notes, holden by this defendant for money borrowed, and $800 in four promissory notes signed by the defendant, payable on time to said Ephraim Martin, or order.

That his, the defendant's reason for causing the transfer to be made to Mr. Allen rather than to himself was, that he thought Mr. Allen could more easily and readily obtain a conveyance pursuant to

the contract, from Mr. Mason, than could this defendant, Mr. Allen being a landlord of Mr. Mason, with power to stop said Mason's works at a month's notice, while he, this defendant, was, and for a long time had been, Mr. Mason's principal rival in business; Mr. Allen having, neither directly nor indirectly, any pecuniary interest in the transaction, but consenting to receive the transfer and obtain the proper conveyance, solely through friendship for this defendant, with the purpose and intent, as fully understood and agreed between him and this defendant, immediately on receiving a conveyance from Mason, to assign all his interest under it to this defendant; and that, consistently with this agreement, a few days after the assignment to him, the said Allen (having first given notice to Mr. Mason of the assignment to him) delivered the said contract to this defendant, in whose possession it has since been and now is.

That on the 30th of September, having learned that Mr. Searle was drawing for Mr. Mason certain conveyances to Mr. Allen, he, this defendant, with Mr. Allen, went to Mr. Searle's office, to look at the instruments, and there saw Mr. Mason himself, who declined showing the instruments to Mr. Allen, but promised to meet Mr. Allen, with the instruments prepared for delivery, at his, Mason's, office, at 11 o'clock A.M., if possible, otherwise at 5 P.M. That he, this defendant, with Mr. Allen and Mr. Ephraim S. Jackson, waited at Mr. Mason's office from 11 to 12¼, and from 5 to about 6 o'clock, and thence went to his residence three times and to two other places, but failed to see or find him, this defendant having supplied Mr. Allen with the means of making to Mr. M. a tender, if it should be necessary, of the cash required by the contract aforesaid to be paid on the delivery of the deed.

That some weeks after, he, the defendant, went with said Allen and said Jackson to the office of Messrs. Ames and Payne, expecting there to see the conveyances, which he had reason to believe Mr. Mason had caused to be made and had left with Messrs. A. & P., but could not then learn whether they were there, or were in Mr. Mason's own hands, though informed by Mr. Ames that they had been there, and might still be there, in some place known to his partner but not to him.

And further this defendant says, that he has reason to believe, that said Mason well understood that the said Allen was acting in this matter but as the agent and trustee of this defendant, and that in this belief he is confirmed by the fact, that since the 23d of September, down to the day of service of the subpœna in this case, he, this defendant, has heard nothing from said Mason relative to his, the defendant's, running and using of the two planing machines in his, the defendant's establishment. And further, that he, this defendant, has confidently relied upon his right to a conveyance, through his agent, Mr. Allen, as aforesaid, as an effectual bar to any attempt of said Mason to enjoin the running of his two machines aforesaid;

and that he has not yet taken any steps, nor moved the said Allen to take any steps to compel a specific performance of said contract by said Mason, because, until the commencement of this suit, he was not without hope that Mr. Mason would ultimately execute and deliver to Mr. Allen the conveyances to which Mr. Allen, as the trustee of this defendant, is entitled; and if within a reasonable time this should be done, and he, this defendant, be in the meanwhile unmolested in the use of his two machines, he, this defendant, would be content.

(Signed) WILLIAM B. DEAN.

Providence, *sc.* In the City of Providence, this 29th day of November, A. D. 1850, appeared William B. Dean, and made oath that the aforewritten statements by him subscribed are true, according to the best of his knowledge, information, and belief.

Before me,

(Signed) JAMES C. HIDDEN,
Justice of the Peace.

A.

PROVIDENCE, Aug. 9th, 1850.

Be it remembered that I, Nathan Mason, have this day agreed and promised to convey and sell to Ephraim Martin or his order, for the sum of seven thousand seven hundred and fifty dollars, my planing mill, corner of Potter and Friendship, and on Page Streets, together with the land on which it stands; all the machinery and fixtures now in said mills; also barn, sheds, counting-room, a tenement adjoining.

Also Woodworth's patent right for planing, for the unexpired term for which said patent was granted to run, and use the same number of planing machines now in said mills, at one and the same time.

Terms of sale: one-quarter cash, the balance in yearly instalments of one thousand dollars.

Also two lumber carriages, one horse and harnesses and waggon, &c., &c. Deed to be given the thirtieth day of next September.

(Signed) NATHAN MASON.

I hereby transfer to Bradford Allen all my right, title, and interest in and to the within contract or agreement.

(Signed) EPHRAIM MARTIN.

PROVIDENCE, Sept. 23d, 1850.

And at said November Term, 1850, this cause came on to be heard upon the petition for injunction, and was argued by counsel, and the following decree entered therein.

Decree.

District of Rhode Island.

Circuit Court of the United States, within and for the Rhode Island District. Nov. Term, A.D. 1850.

MASON & GOULD
v.
WM. B. DEAN. } In Equity.

This cause came on to be heard on motion of the complainants for a temporary injunction, to restrain the defendant from using any machine substantially the same in its construction, and mode of operation as the said patented planing machine; and it appeared that the said defendant at the time of the filing of the said bill, was using such machines, and that he claimed the right to continue the same, since the last extension of the said letters patent, by reason of a certain contract alleged to have been entered into between the said plaintiff Mason, and one Ephraim Martin, and by said Martin assigned to one Bradford Allen as trustee and agent for the defendant. And after hearing both parties, through their counsel, and upon their several proofs and allegations, the Court being of opinion that the said defendant hath not the right to use said machines, under the said last extension, do order and decree that the said defendant, his agents and servants, be enjoined until the further order of the Court from using any one of the said machines, unless the said defendant shall within twenty days from the 23d of December, 1850, give bond to the said Mason and Gould, with sufficient sureties to keep and render to the clerk, an account of all profits arising from the use of said machines, and to pay over the same according to the order of the Court; and to pay all costs of this suit, which may be recovered against him by the plaintiffs (or if the defendant shall prefer), shall give bond within the said twenty days to said Mason and Gould, with sufficient sureties to pay over to them the price customary for liberty to use the said machines, from the time of the commencement of said last extension of said letters patent, together with all costs of this suit, which may be recovered against him by said Mason and Gould, or which he may be adjudged to pay. And any question as to the amount of said bond, or the sufficiency of such sureties is referred to the clerk; and all further directions are reserved, &c., &c.

Let this decree be entered as of record.

(Signed) JOHN PITMAN,
District Judge.

Nov. Term, 16th day, 1850 (Dec. 23).

Entered as the decree of the Court, by order thereof.

(Signed) JOHN T. PITMAN,
Clerk.

Whereupon the defendant filed the following

Bond.

Know all men by these presents, That we, William B. Dean, of Providence, in the County of Providence and State of Rhode Island, &c., as principal, and John D. Jones and Ephraim S. Jackson, both of said Providence, as sureties do hereby acknowledge ourselves indebted to Nathan Mason, of said Providence, and Charles D. Gould, of Albany, in the State of New York, in the sum of four thousand dollars, to the payment of which well and truly to be made, we hereby bind ourselves, and our several and respective heirs, executors and administrators firmly by these presents.

Sealed with our seals this eighth day of January, A.D. 1851.

The consideration of the foregoing obligation is such, that whereas the said Nathan Mason and Charles D. Gould have filed their bill in equity, against the said William B. Dean, in the Circuit Court of the United States, for the District of Rhode Island, and have obtained thereon upon motion, a temporary injunction against him, to restrain him from using any machine, substantially the same in its construction and mode of operation as the patented planing machine described in said bill, which injunction is ordered to issue unless the said William B. Dean give bond to the said Mason and Gould, to keep and render to the clerk of said Court, an account of all profits arising from the use of said machines, and to pay over the same according to the order of the Court, and to pay all costs of this suit, which may be recovered against him by the plaintiffs, or which he may be adjudged to pay.

Now, therefore, if the said William B. Dean shall well and truly comply with the terms of said order and keep and render to the clerk of the Circuit Court, for the District of Rhode Island, an account of all profits arising from the use of the planing machines operated by him, and shall pay over said profits, according to the order of said Court, and shall pay all costs of this suit, which may be recovered against him by the plaintiffs, or which he may be adjudged to pay: then this obligation shall be void; otherwise, to remain in full force.

Witness our hands and seals, the day and year above written.

(Signed) JOHN D. JONES, [SEAL.]

Witness,
D. A. CARPENTER.

EPHRAIM S. JACKSON, [SEAL.]

Witness to Ephraim S. Jackson's signature,
EDWD. STANHOPE, Jr.

WILLIAM D. DEAN, [SEAL.]

Witness to William B. Dean's signature,
JOHN T. PITMAN.

Petition for Account.

To the Honorable, the Circuit Court of the United States, for the Rhode Island District.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In the Bill in Equity.

Nathan Mason, one of the complainants to aforenamed bill, respectfully moves the Court that William B. Dean, the said respondent, be forthwith required, in pursuance to the interlocutory decree made by the Court at the November Term, 1850, now sitting, to render to the clerk of the Court an account of all profits arising from the use of the machines, in the bill mentioned, from the time of the filing of the petition for an injunction, viz.: November 18th, 1850, to the first day of January, inst., and on the first day of each month hereafter.

(Signed) NATHAN MASON.

PROVIDENCE, Jan. 13th, 1851.

Notice.

[L. S.] Rhode Island District, *sc.*, to William B. Dean of Providence, in the District of Rhode Island, greeting:

Whereas, Nathan Mason, one of the complainants in the Bill in Equity, wherein Nathan Mason and others are complainants, and you are respondent, has filed a petition before our Circuit Court, asking that you should be required to render to the clerk of said Court an account of all profits arising from the use of the machines, in the bill set forth, from the time of the filing of the petition for an injunction, viz.: November 18, 1850, to the first day of January, inst., and on the first day of each month hereafter.

You are, therefore, hereby notified, that a hearing on said petition will be had at the District Judge's office, in Providence, on Wednesday next, at 10½ o'clock A.M.; at which place and time you are required to appear, to make your objections, if any you have, to granting said petition.

Dated at Providence, January 13th, 1851.

(Signed) JOHN T. PITMAN,
Clerk of the Circuit Court for R. I. District.

Marshal's Return.

United States of America, Rhode Island District, *sc.*

January 13th, 1851.

Made service of the within notice by leaving a true and attested copy hereof, at the last and usual place of abode of the within named William B. Dean, as commanded.

(Signed) CHARLES E. NEWELL,
Deputy U. S. Marshal.

Fees,

Service,	$2 00
Copy,	50
Travel, 1 m.,	10
	$2 60

And said cause being continued to the June Term, A.D. 1851, of said Court, it is again called for hearing, and the following decree entered.

Interlocutory Decree.

District of Rhode Island, *sc.*, Circuit Court of the United States, June Term, A.D. 1851.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In the Cause in Equity.

This cause came on to be heard at this term, and it appearing that no plea, demurrer, or answer has been filed by the respondent, and the proper time for filing the same having passed, it is, on motion of the complainant, ordered, adjudged, and decreed as follows:

That said bill be taken *pro confesso*.

And that the said William B. Dean be perpetually enjoined from any further constructing or causing to be constructed, using or causing to be used, in any manner, said patented machines in said bill mentioned, for dressing boards and plank by planing, tonguing, and grooving, or either, in any separate combination, and from using or vending any of the products of said patented machines, when unlawfully constructed and put in operation in violation of the rights of the plaintiffs, as is set forth, and from infringing upon or violating the said patent in any way whatsoever.

And that this cause be referred to Joseph S. Pitman, Esq., a Master in Chancery, hereby appointed to act as such in this cause to take an account of the profits or income derived by the defendant, or which by reasonable diligence might have been derived by the respondent, from the use made by him of said patented machines and the sale of the products thereof, from the 22d day of May, 1850, to the time of taking said account, and to report the same to this Court, and that in the meantime this cause stand continued to abide the further order of this Court.

June Term, 15th day, July 24, 1851. Entered as the decree of this Court, by order thereof.

(Signed) JOHN T. PITMAN,
Clerk.

Whereupon, the following writ was issued:

Writ of Injunction.

Rhode Island District, *sc.*

The President of the United States of America to William
[L. S.] B. Dean, of Providence, in the State of Rhode Island, a citizen of said State, greeting:

Whereas, it has been represented to our Circuit Court for the first circuit within, and for said Rhode Island District, holden at Newport, on the sixteenth day of June, A. D. 1851, on the part of Nathan Mason, of the City of Providence, in said District, planer of boards, Charles D. Gould, of Albany, in the State of New York; William W. Woodworth, of Hyde Park, in the Northern District of New York, as he is administrator of William Woodworth, late of the City of New York, gentleman, deceased; and as he is grantee of certain exclusive privileges, under and pursuant to an Act of Congress, as is in their bill set forth, James G. Wilson, formerly of the City of Philadelphia, and now of Hastings, in the State of New York, gentleman, and Richard Borden and Jefferson Borden, both of the town of Fall River and District of Massachusetts, that they have exhibited their bill of complaint against you the said William B. Dean, respondent, in our said Circuit Court, to be relieved touching the matters therein complained of; in which bill it is, among other matters and things set forth, that they the said Nathan, Charles D., William W., James G., Richard, and Jefferson, were, previous to the filing of said bill, possessed of the full and exclusive right and liberty of making, constructing, using, and vending to others, to construct and use twenty machines called "Woodworth's Planing Machines," for dressing boards and plank, by planing, tonguing, and grooving, or either, in any separate combination, &c., according to said Woodworth's patent, to be used within the Counties of Providence, Washington, and Kent, in said State of Rhode Island, and one and one-half miles from the east shore of Seekonk River, in the town of Seekonk and State of Massachusetts, with the exception of a district of three and a half miles northeast and west, and two miles south of Pawtucket Bridge, in the town of North Providence, in said County of Providence, for and during the residue of the term of seven years, from and after the 27th day of December, 1849, being the term for which said patent was extended by Act of Congress.

And also that you, the said William B. Dean, are injuring the said complainants, by using machines substantially the same in construction and operation as the planing machine in said letters patent mentioned, the exclusive right to make use and vend which is by law vested in said orators, thereby infringing upon the exclusive privileges intended to be secured to said orators by said letters patent.

And it appearing that no answer, plea, or demurrer has been filed to said bill, it was ordered that the same be taken *pro confesso*.

We, therefore, in consideration of the premises, and of the particular matters in said bill set forth, do strictly and perpetually enjoin and command you, under the penalty of six thousand dollars, to be levied upon your lands, goods, and chattels, to the use of the complainants; that you henceforth altogether desist and refrain from constructing, or causing to be constructed, using, or causing to be used, in any manner, said patented machines in said bill mentioned, for dressing boards and plank, by planing, tonguing, and grooving, or either, in any separate combination, and from using or vending any of the products of said patented machines, when unlawfully constructed and put in operation, in violation of the rights of the complainants, as is set forth, and from infringing upon or violating the said patent in any way whatsoever.

Witness, the Hon. Roger B. Taney, our Chief Justice, at Providence, this twenty-ninth day of August, A. D. 1851.

(Signed) JOHN T. PITMAN,
Clerk.

Marshal's Return.

United States of America, Rhode Island District.

August 29th, 1851.

Made service of the within writ by leaving a true and attested copy hereof at the last and usual place of abode of the within-named William B. Dean, as commanded.

(Signed) CHARLES E. NEWELL,
Deputy U. S. Marshal.

Fees,

Service, . .	$2 00
Copy, . . .	1 00
Travel, 1 mile, .	10
	$3 10

And also the following

Commission to Master.

Rhode Island District, *sc.*

The President of the United States of America, to Joseph [L. S.] Story Pitman, of Providence, in said Rhode Island District, Esquire, greeting:

Know you, that reposing confidence in your wisdom and fidelity, we have appointed and by these presents do authorize and empower you, as a Master in Chancery, "to take an account of the profits or income derived by the defendant, or which, by reasonable diligence, might have been derived by the defendant from the use made by him of said patented machines, and the sale of the products thereof, from

the 22d day of May, 1850, to the time of taking said account, and to report the same" to the Circuit Court, for said Rhode Island District, in a certain cause in equity, therein pending, wherein Nathan Mason, of Providence, in said district, and Charles D. Gould, of Albany, in the Northern District of New York, are complainants, and William B. Dean, of said Providence, is defendant, in pursuance of a certain decree entered in said cause at the June Term, A.D. 1851.

And for this purpose (being first duly sworn) you will notify the parties of the time and place you shall appoint, and there proceed to execute the duties of your said appointment, and your report make to our said Court as soon as may be.

And if either party, after being duly notified, refuse or neglect to attend, you are hereby further authorized to proceed *ex parte*, and your report make accordingly. Hereof fail not.

Witness, the Hon. Roger B. Taney, our Chief Justice, at Providence, this twenty-ninth day of July, A.D. 1851.

(Signed) JOHN T. PITMAN,
Clerk Circuit Court R. I. District.

Oath.

Rhode Island District, *sc.*

CLERK'S OFFICE, CIRCUIT COURT,
AT PROVIDENCE, October 11th, 1851.

Then, personally appeared the within-named Joseph S. Pitman, and made oath that he would faithfully and impartially discharge the duties imposed on him by the foregoing commission, according to the best of his skill and understanding. Before me,

(Signed) JOHN T. PITMAN,
Clerk.

Citation.

United States of America, Rhode Island District, *sc.*

Circuit Court of the United States.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

Whereas, by a decretal order in the above-entitled cause, the undersigned, as a Master in Chancery, was directed to take an account of the profits or income derived by the defendant, or which, by reasonable diligence, might have been derived by the defendant, from the use made by him of the said patented machines, and the sale of the products thereof, from the 22d day of May, 1850, to the time of taking said account, and to report the same to said Court; notice is hereby given to you, the parties in said cause, that I will be in

attendance at my office, No. 4 Whipple's Building, College Street, Providence, on Thursday, the 16th day of October, inst., at seven o'clock, P.M., for the purpose of complying with the requisitions of the above order.

Witness my hand, at Providence, this eleventh day of October, A.D. 1851.

(Signed) JOSEPH S. PITMAN,
Master in Chancery.

PROVIDENCE, Oct. 11, 1851.

I acknowledge service of within notice for complainants.

(Signed) SAMUEL AMES,
Their Solicitor.

I acknowledge service of this notice for the defendant.

(Signed) JOHN P. KNOWLES,
Solicitor for Defendant.

Oct. 16, 1851.

Met pursuant to the above citation, and adjourned to meet on the notice of the master, at the time agreed on by the parties.

(Signed) JOSEPH S. PITMAN,
Master in said Cause.

And the cause being further continued to the November Term, A.D. 1851, of said Court, when the following report was filed, and exceptions to same.

Master's Report.

Circuit Court of the United States.

Rhode Island District, *sc.*

NATHAN MASON et al.
v.
WILLIAM B. DEAN.

Master's Report.

By a commission directed to me in the above-recited cause, I was required "To take an account of the profits or income derived by the defendant, or which by reasonable diligence might have been derived by the defendant, from the use made by him of the said patented machines, and the sales of the products thereof, from the 22d day of May, 1850, to the time of taking said account." In accordance with the requirements of said commission, the parties to said cause were duly notified, and appeared before me. The testimony of the witnesses produced by said parties was given before me, and reduced to writing by me, and is herewith returned with this report. At the conclusion of the testimony, the parties were heard by their counsel.

The defendant was examined under oath at the instance of the complainants, and a statement was presented by him and sworn to, showing the amount of work done by him and the expenses thereof, from the 22d day of May, 1850, to the 8th day of January, 1851; certified copies of two other statements sworn to by the defendant before the clerk of this honorable court were also presented to me, showing the amount of work done by the defendant and the expenses thereof, from the 8th day of January, 1851, to the 29th day of August, 1851. This latter date was sworn by the defendant to have been the time when he ceased using the Woodworth machines.

There was no dispute between the parties as to the amount of work done by the defendant and the prices received therefor. It is agreed that 3,354,358 feet of lumber were planed by the defendant during the whole period above named, and that the prices received therefor amounted to $12,847 47.

It is my duty to report as far as I am enabled to do so by the evidence presented, the profit made by the defendant, or which, by reasonable diligence, might have been made in performing the above amount of labor.

It was contended at the hearing by the counsel for the defendant, that it was proper for the master to consider the whole time over which the inquiry extends, as divided into two periods; the first, terminating with the 8th of January, when the bond was given, and the second, terminating with the 29th of August, when the defendant ceased using the Woodworth machines; that as far as relates to this second period, the defendant was using the machines under a certain condition, viz.: to return to this honorable court a true account of the profits made by him while using said machines, and if he has failed to comply with the conditions, the complainants have their remedy by a suit upon the bond. That for this period the only duty of the master is to inform the Court, under the rules of practice, what he finds upon the return of the defendant to be the amount of the profit. With the view of meeting this case, should the Court sustain the position of the defendant's counsel, I report that for the period from the 8th of January to the 29th of August, 1851, it appears by the return of the defendant, which was not attempted to be impeached, that the profit derived by him from the use of said machines was $323 49.

It was also contended by the defendant's counsel, that the statement of the defendant under oath, of the result of his business from the 22d of May, 1850, to the 8th of January, 1851, must be taken as conclusive evidence of that result unless it was shown to be incorrect, and, that as there had been no contradiction of that testimony, nor attempt to contradict it, it was the duty of the master to report that result, and that it must control his decision. If this view is correct, my task would be an easy one, and I should therefore report, that for the period now under consideration, the defendant

appears to have incurred a loss from using said machines of $110 72.

With the view, therefore, of meeting the case which would arise, should the Court sustain the views of the defendant's counsel which I have above presented, I report that the profit accruing to the defendant from the use of said machines appears from his uncontradicted testimony to have been $212 77.

But there is another view, which I am required to take, by the language of my commission, viz.: what profit might the defendant have made in said period by the use of said machines, with reasonable diligence.

The counsel for the complainants contended at the hearing that the rule to be applied to this case was the following: ascertain what would be the profit derived from using these machines in the City of Providence under the most judicious and economical management, and require that profit at the hands of the defendant. On the other hand, the defendant's counsel contended that this rule would be too strict, and that the defendant should be held to exercise only that degree of reasonable skill and diligence which ordinary men use in their business. It appears to me that the latter rule is the one which the honorable court had in contemplation in its decree for this investigation, and that it held the defendant to account to the complainants as an agent, rather than as a wrongdoer. With this view, therefore, I have considered the testimony in the case, and have allowed to the defendant the sums which I deemed he ought reasonably to have for the work which he has performed. The parties are widely apart in the sums which they deem the complainants are entitled to recover. The complainants called but one witness, Mr. Sprague, who testified that he operated the same number of machines as was operated by the defendant, and that he did the work at a cost of but 95 cents per thousand feet. This the complainants contended should be taken as the proper cost of the work, and that the receipts of the defendant with this deduction should be decreed as the profits to which they are entitled. Their counsel at the hearing consented, however, that the sum of one dollar per thousand should be allowed the defendant, and that the excess of the receipts over that sum should be reported as due from the defendant. Upon this basis the complainants would be entitled to $9493 12 cts.

It appears to me, however, that upon the evidence this amount is too great, while the amount admitted to be due by the defendant is too small.

The items of expense entering into this business are rent, ground-rent for stacking lumber, labor, oil, fuel, carting, and repairs. I shall consider each of these in their order, and endeavor to ascertain from the evidence, what sums are properly chargeable by the defendant against his receipts.

And first, of rent. The amount charged by the defendant for the

whole period, sixty-six weeks and two days, is $2541 68, or at the rate of $1999 37 per annum. The complainants' witness, Mr. Sprague, testified that he paid his rent by planing, which he valued at rising $1600 per annum, and by furnishing power which, in his second examination, he valued at $500. He gave no direct statement by which I was enabled to ascertain the exact value of the planing done for his lessor, and as his testimony was left, his rent was fixed at rising $2300. It was contended at the hearing, by complainants' counsel, that a part of this sum should be charged to the license to use the machines; but no testimony was adduced, showing how much was proper to be allowed under this head. It was stated by counsel, that in the State of New York, the amount charged for the right to use said machines, was one-quarter of the gross receipts from the use. From the statement presented by Mr. Sprague, of the amount of work done by him in thirty-seven weeks, it would appear, granting that the work should continue equally for a whole year, as it was for those thirty-seven weeks, the proper sum to be charged Mr. Sprague, for using the patented machines, following the New York rule, would be $2060 08 which would leave as rent proper for the establishment, but about $240 per annum, taking Mr. Sprague's testimony by itself.

The general current of the testimony for the defendant, went to show that it was in the present state of the planing business, in Providence, highly advantageous for an operator to pay his rent in planing; and one witness deemed that an operator could afford to pay double the rent in planing, which he could pay in cash. Edward Luther was a partner of Sprague's, up to April last; and a portion of the time during which Luther & Sprague hired the planing-mill of Mason is the same, as a portion of the time covered by this inquiry. By Luther's testimony, it appears that the amount of planing done for Mr. Mason, by Sprague & Luther, which was regarded as rent, amounted, at current prices to $2250 per annum, making the whole rent, adding the value of power furnished, $2750, or a little more.

Mr. Sprague testifies that when he was engaged in putting up the mill for the Union Planing Company, it was thought the right to use the machines then, was not worth much. Mr. Tallman testifies that he sold to Mr. Dean, the right to use the machines about the time of his purchase of the extension of the patent for seven years. That he thinks Mr. Kenyon paid about the same as Mr. Dean, which was from $1400 to $1800, though for what period, does not precisely appear. I am unable, therefore, to apportion, with entire certainty, the amount to be allowed as rent, and the amount to be allowed as license. From the whole testimony, that showing the rent of Tallman's works, the cost of Kenyon's works, and the relative value of the locality of the defendant's mill, with all there, the size of the defendant's mill, its security from fire, its advantages in doing work over Sprague's

mill, as testified to by Davenport, I deem the rent charged by the defendant as proper and not excessive.

It was contended, at the hearing, by complainants' counsel, that the defendant was bound to carry on his business in a less expensive portion of the city, and that the complainants ought not to suffer by his interference with their rights, in a manner which deprived them from reaping the benefits they would have secured, were their machines located elsewhere. I cannot take this view in this inquiry, as I am not acting in the capacity of a jury to assess damages for the wrongful act of the defendant, but as a master, to ascertain what reasonable profit might have been made by the defendant. It would be unreasonable to ascertain that profit by placing him in a new position, or in any position different from that in which this suit found him, and with reference to which the Court instituted this inquiry.

Secondly. What amount should be allowed the defendant for ground-rent, for lots on which he sticks lumber. The amount charged by him is $800 or $629 29 per annum. That some ground is necessary for the purpose, for which this charge is made, is clear upon all the testimony. The ground-rent paid by Luther, did not exceed $180 per annum. The whole ground-rent for mill site and stacking lumber, by the Union Planing Company, was but $300; though there was an understanding that more land should be used, and it was used, without any charge for rent. The whole rent for Tallman's mill, and the land used for stacking lumber for the mill, Dailey states to be $1350 cash, and $500 power. The site of Dean's mill is more expensive than either of these, and it is obviously to his advantage to have his lumber as near his mill as possible. He is, however, bound to use reasonable caution in making his contracts for planing lots of lumber which require to be stacked, and in the selection of lots, having in view the ground-rent, as well as the expense of carting the lumber a greater or less distance. Under all these circumstances, without any testimony of the value of land in that or other portions of the city, I conclude from a careful examination of the facts which are before me, that the sum of $400 per annum should be allowed as ground-rent, and so report the amount for ground-rent to be $509 74.

Thirdly. What is the proper and reasonable charge for labor in the defendant's mill?

The defendant claims to be allowed $5361 81, which is $80 88 per week. I have endeavored to get at a reasonable allowance for labor, from the facts presented to me. I will show the process I have pursued, and though in the examination of the testimony of some of the witnesses, I have been compelled to rely on conjecture in part, the evidence is before the Court, which therefore, has the means of ascertaining the correctness of my results.

Mr. Sprague runs three machines, the same number as run by the defendant; he employs five and sometimes six men. To these he pays five shillings per day, to one twelve, to one six, and he charged

his own services at twelve shillings per day. He says this includes the teamster, he does not say what he pays him, but I conclude five shillings; as he sometimes employs a sixth man. I allow such man to be employed half the time, and reckon his wages at three shillings per day on the average. This gives the labor in Sprague's mill at 43 shillings per day, or $43 per week. This is the complainants' testimony, and to this allowance they insist the defendant should be held. The amount of planing done in Mr. Sprague's mill for the period of 37 weeks, and that done in Mr. Dean's mill for the period of 66⅔ weeks, averages very nearly the same, The average in Mr. Sprague's is a little larger than that in Mr. Dean's, but Mr. Sprague does not make a return of the work in the winter months, when there is less work to do than in the summer. This fact, however, would also show, that had Mr. Sprague's statement included the winter months, the average cost of labor would have been less than now appears,

The testimony adduced by the defendant shows the usual cost of labor, to be greater than that testified to by Mr. Sprague.

Dailey states, that he employs eight or nine men in the planing business, at a weekly charge for labor of $58, besides clerk hire, and his own charge for services. These two items at a reasonable allowance would not be less than eight dollars per week, making the expense of labor at Dailey's establishment $66 per week.

I have some doubt whether there should not be a deduction from this amount for labor, on the clapboard and the moulding machine; but as the testimony was not clear upon that point, I merely state the doubt, and leave the matter.

Luther states that he used with Sprague, the same number of machines as used by Dean, and that he employed six men, averaging three all the time besides Mr. Sprague and himself. Reckoning his engineer at ten dollars per week, his machine tender at six, one laborer at five, and Mr. Sprague and himself at twelve each, we shall have $45 per week, as the cost of labor to him. Martin operated the same number of machines. He kept two machines in operation all the time. His labor is thus calculated: two machine tenders at eight dollars per week, an engineer at ten, a fireman at six, one laborer at five, and himself at twelve; making a weekly expense of $49. Davenport states there was no unnecessary help at Dean's. He fixes the amount of labor and wages thus: an engineer $6 per week, two machine tenders averaging $11 25 per week, two laborers $6 per week, two men to saw boards for the watcher at $6 per week. Total $52 25. To this Mr. Davenport adds two men for stacking lumber at $6 each per week, and a charge of $6 per week, may properly be allowed for Mr. Dean's superintendence, which would give the total expense $70 25.

Thornton, in Pawtucket, uses one machine about half the time, he has one machine tender, one man to take away the boards; one and

sometimes two to hand them in. His testimony on this point, however, seems very vague, and he gives no account of the prices he pays his men. Richmond was clerk of the Union Mill Planing Company. They operated three machines and a clapboard machine. They kept five men on steady pay all the time, sometimes three men extra. To their machine tender they paid $9 per week, engineer $15, fireman $6, clerk $9 66, man to take away the boards $5, he affixes no price to the services of the agent, but if we allow him $12 per week, we shall find his expenses for labor amounting to $56 66. Stanhope, Dean's clerk, says there were no more men employed at Dean's than were necessary, he adds that Dean kept a night-watch, and I suppose $3 per week would be a fair charge upon the planing business for this man; he also adds, that he prepared the statements with Mr. Dean, which were sworn to by the latter, and that three-quarters of Mr. Dean's time at $15 per week, and three-quarters of his pay as clerk was added. He does not, however, state what his pay was. From his testimony and that of Mr. Davenport, it would appear that the charge of $80 88, was the cost of labor in Mr. Dean's mill.

From all these facts, remembering that no testimony of his expense of stacking is given, except by Mr. Davenport, who says two men were necessary for that work; and by Mr. Cornell, who states the average cost of stacking to be about twenty-five cents per thousand; both of which statements show about the same result, provided all the lumber planed by Mr. Dean was stacked; and there is no evidence showing whether this be the fact, or not. I have come to the conclusion, that the reasonable charge for labor to be allowed the defendant, under the rule I have adopted is $60 per week, making the total amount for labor $3968 59.

Fourthly. What is the proper allowance for oil? The witness called by the complainants presented a statement at his second examination, in which he says, the oil is more than paid for by the sale of the edgings, which by custom belong to the mill, and he states that the value of these edgings is over $1 50 per week. Mr. Dailey states the amount of oil used in his mill to be about a gallon per day. He uses the Norcross machines, and Mr. Kelley says they require more oil than the Woodworth machines. Mr. Luther says when he first commenced the planing business, he used five gallons per week, but by personal attention to the use of oil, the quantity consumed was reduced to one quart per day. Mr. Davenport states he judged the amount used on the planing machines in Dean's mill to be one quart per day. Mr. Cornell thinks about one gallon per day was used in the same mill. Mr. Kelley states he used in Tallman's mill, on the Woodworth machines, one gallon per day, and yet he says the machines he now uses require more oil than the Woodworth machines. Mr. Stanhope thinks about a gallon per day was used in Dean's mill. Tallman thinks when he was doing "so much" work

in his mill, he consumed about one gallon per day. After weighing all this testimony, I think, for the work done in Dean's mill, for the time covered by this inquiry, it will be reasonable to allow half a gallon per day, at a valuation, ascertained as nearly as possible from the testimony of Dailey, Cornell, and Stanhope, of $1 04 per gallon; setting off against this the value of the edgings, &c., as sworn to by Mr. Sprague in the statement submitted by him, which is uncontradicted, I report that $1 62 per week is a proper allowance to the defendant for oil, which for the whole period gives a total of $107 15.

Fifthly. What is the proper charge for fuel? The complainants contend that this charge should be wholly disallowed, on the ground that the work done by the defendant furnished a sufficient quantity of shavings for the fuel of the mill. The testimony indisputably establishes this fact, and if the matter rested only on the testimony of the witnesses sworn before me, I should report that this charge should be disallowed. The defendant, however, cites the 7th, 8th, and 10th sections of "an act concerning the erection of buildings in the City of Providence," passed by the General Assembly of this State, at their October session, 1843, which provides that no steam-boiler shall be used in said city, except under such rules of the Board of Aldermen of said city, under penalty of forfeitures and indictment. He also files an order of said Board, requiring this defendant to use as fuel for his steam-boiler "anthracite coal exclusively, or as nearly so as may be practicable." Under these circumstances, I feel bound to make an allowance for fuel, and in the absence of evidence as to the necessary quantity of coal required for his engine, one of twenty horse-power, I must take the defendant's sworn statement as evidence of the amount necessary for him to use, in order to avoid the pains and penalties of said act. I, therefore, report the reasonable charge to be allowed for fuel to be $643 85. That the defendant used the shavings as fuel is not denied by him, but appears established by the testimony.

Sixthly. What is the proper charge for repairs? The defendant has charged $110 for the last 33⅓ weeks of the time covered by this inquiry, but has made no charge for the first 33 weeks. The amount for the period charged for is $3 33 per week. Mr. Sprague testified that his repairs were trifling, and done by himself and one of his hands. Martin states that the business is one which is expensive for repairs. Two of the other witnesses state they did all the repairs in their respective mills. With this testimony, and in the absence of any showing the employment of any workmen by the defendant for this special purpose, while his own hands testify that they did the repairs in his mill, for whose labor an allowance has already been made, I report that the defendant ought not to be allowed this item.

Seventhly. What is the proper charge for carting? The charge made by the defendant is $2737 36. It appears from the whole tes-

timony to be a custom in the City of Providence for the operator of a planing-mill to convey the lumber to his mill and from it, or where it is conveyed by the owner of the lumber, to make a commutation of five shillings per thousand on the price of planing. This charge enters into the arrangement for rent between Mr. Sprague and Mr. Mason, and existed when Messrs. Sprague and Luther hired the same mill of Mr. Mason. The testimony of Mr. Sprague, that he planes for 95 cents per thousand, must be taken with this qualification, as will be seen by noticing that part of his testimony where he makes up the amount of rent paid. I cannot see that this charge should not be allowed the defendant upon those boards he planes for his box business, as well as upon those he planes for other people. If Mr. Dean was only a manufacturer of boxes, he could have the boards delivered at his door for $3 17 per thousand from Mr. Sprague's mill, and there is no reason why he should be required to charge himself a larger sum for planed box boards than he could obtain them for of other persons. The whole amount of work done by him would, at the price of five shillings per thousand for carting, amount to $2795 29, but as he has sworn to his statement that $2737 36 is his expense for this item, I do not feel at liberty to report a larger charge than he has made. I, therefore, report the sum of $2737 36 as reasonable to be allowed under this head.

It appeared in the testimony of Stanhope, that there was some sawing done at the defendant's mill, but how much, was not ascertained, and I am, therefore, unable to report what deduction from the charge for labor ought to be made on that account, or what should be added to the gross receipts for this item.

It was argued by the defendant's counsel that there should be a charge for insurance upon the defendant's mill, and that he was reasonably entitled to such an allowance. The counsel claimed that $350 per annum should be allowed, but as no evidence was presented of the proper amount, I have thought it sufficient for me to *notice* the claim in this report.

I have endeavored to arrive at a correct conclusion upon the whole testimony, and the declaration by the counsel upon both sides at the hearing, that this report whatever it might be, would undoubtedly be excepted to by one party or the other, has not made me less cautious in making up my own opinion, but has rather stimulated me to a closer examination, and possibly greater deliberation.

The result of my investigation I find is, that the receipts of the defendant were, $12,847 47

I deem him reasonably entitled to charge:

For Rent,	$2541	68
" Ground-rent, for stacking lumber,	509	74
" Labor,	3968	59
" Oil,	107	15
" Fuel,	643	85

For Repairs,	0 00	
" Carting,	2737 36	$10,508 37
Showing that the sum of		$2,339 10

is the amount which "by reasonable diligence might have been obtained by the defendant, from the use made by him of said patented machines, from the 22d day of May, 1850, to the 29th day of August, 1851," the time when the defendant ceased using said machines. I therefore report this sum as the amount due the complainants from the defendant.

If the defendant is to be held as a wrongdoer to a strict account, it would seem sufficiently strict, and purely equitable to hold him accountable for the amount which would have been paid by him, for the right to use these machines. The complainants ought to be satisfied with this amount; and it appears to be sufficient punishment to the defendant to be compelled to forego any profit on his exertions and his expenditures. If he had acquired the right to use these machines under such an agreement as counsel state is customary in the State of New York, the payment to the patentees of one-quarter of the gross receipts, the patentees or the complainants in this cause would have received but a little more than the sum I have reported as now due them. Their proportion of the whole receipts $12,847 47 would have been $3211 86¾.

In most of these establishments the planing supplies the fuel, and would have done so in this case, but for the laws of this State, and the regulations under which the defendant runs his mill. If the Court decide that my allowance of the charge for fuel is improper, that amount $643 85 will be added to the amount reported due, $2365 77, and the sum then found due will be $3,009 62.

I return herewith, the evidence taken before me, the three statements submitted by the defendant, the statements of Albert G. Sprague, and the order of the Board of Aldermen.

All which is respectfully submitted by,

(Signed) JOSEPH S. PITMAN,
Master in said Cause.

February 2d, 1852.

On the 24th of February, 1852, the counsel in the above cause presented to me, objections to the above report, which objections, after a full consideration and review of said report, are overruled by me with the exception below made, and are herewith returned to this honorable Court.

The counsel for the defendant claims that the sworn statements of the defendant, respecting the item of carting contained an error of $57 93 in calculation, and that the error should be rectified. The error exists, and since it is claimed to have so arisen, I correct my

report in this particular, and report the sum of $2795 29 as allowed for carting, instead of the before-named amount of $2737 36.

I have stated in said report, that under one view of the duty required of me, I find there is due from the defendant the sum of $212 77. I now report that said sum should be $154 84, owing to the error above named. I am, however, still of opinion that this is not the view proper to be taken under the decree, but that the view under which I reported the sum of $2339 10 as the amount due from the defendant is the correct one. I now however reduce that amount by the above sum of $57 93, and report that the amount due from the defendant is $2281 17. All which is respectfully submitted by,

(Signed) JOSEPH S. PITMAN,
Master, as aforesaid.

Master's Fees,
$125 00.

Evidence.

William B. Dean, sworn at the instance of the complainants. The statements presented by me include the planing I have done for myself and for the public. I have no means of discriminating between them. All the work done up stairs is done by another machine; the lumber taken for that is taken in the rough; the work done there is not included in the accounts rendered. There was also a machine for sticking mouldings; the work done by it is not included in the account. I did not suppose it was a Woodworth machine. There are many of them in the country. This last machine I stopped a month ago about, when I had notice by an order from the plaintiff. I had notice to stop it from somebody, I don't know who.

Albert G. Sprague, called by the complainants. My occupation is in a planing mill. I have been employed rising two and a half years. I have been in the business some seven years. I have been in business on my own account; on my own individual account since the 8th of April last; previous to that time I had a partner. His name was Edward Luther. I have kept generally a regular account through the week of the expenses, and of the amount of planing, since the 8th of April last. I used frequently, before that, to foot up at the end of the week, and show my partner how we stood. When I was charging my accounts on the book, I was in the habit of putting on a piece of paper what the planing of each week amounted to. By this I mean keeping account what the work amounted to for each man who gave me work, charging the oil, horse-keeping, labor, &c. &c., deducting the amount from the first amount; showing thus the amount received over and above the expenses. In this way I could tell at the end of each week what the expenses were within a few cents. My rent is paid by planing, and was included in the said account of expenses. No fuel has been bought by me. The expense of planing could not have varied much during the last

two or three years. No material variation in the necessary expenses. The business might have been attended to a little snugger at some times than at others. I have probably attended more diligently for the last eight months than before. (What is the necessary expense of planing a thousand feet of boards, in the City of Providence, by Woodworth's machine?) I figured up the expense for six weeks, and I made it cost something less than 95 cents. It has actually cost me that. This statement is based on an accurate account for six weeks. I know of no reason why the expenses should have been less for the six weeks when I kept the account than for any other six weeks. I consider that estimate a fair estimate based on the work done in my establishment.

Cross-Examination.—I have had no difficulty with Mr. Dean at any time. I was not formerly a partner of his. I run Mr. Mason's mill on the corner of Potter and Friendship Streets. I hire it of him; for no specified time; for as long as he and I can agree; I agree to plane for him a certain amount of box boards per day, and furnish him a certain amount of power. I plane him such an amount of box boards as is contracted between him and me. It amounts to rising $1600 per year; that is the amount of box boards I plane for Mr. Mason at the prices at which I plane for other people; at the prices I am paid for work by Mowry & Steere, and other people, it would amount to that sum. For planing box boards, which are planed both sides, for other people than Mr. Mason, I charge $4 per thousand feet, and a deduction of 84 cents if they cart them. The same price for planing any other class of boards both sides. I run three machines; and there is another clapboard machine in another place that I do not hire. There are three planing machines in the mill that I hire. The repairs I do myself. The repairs we do have been very trifling; no serious break-downs. The repairs have all been done in the mill by myself and one man whom I have. I have paid very little, if anything, for repairs since April last; there is none done on the mill except by myself and hands in the mill; none on the engine of any consequence,—a little packing occasionally; twenty-five cents worth, perhaps, once a month. I employ five and sometimes six men. I pay them from five shillings to two dollars per day. Three I pay five shillings, one I pay two dollars to, and one dollar to the other. This includes the teamster. I keep one horse; no bookkeeper nor clerk. I do that part of the business. I do my collecting; that is, what I collect. I don't collect a great deal. Mr. Mason makes boxes in the second story of the building over the engine. He does not see to any part of my business whatever. In my estimate I believe I allowed two dollars per day for my personal services. I gave Mr. Gould a memorandum of the expenses for the six weeks I referred to. The planing I do for Mr. Mason pays the rent of the building, ground, and all. Mr. Mason pays the ground-rent, and I hire of him. Mr. Mason has nothing to do with my

books or my profits; have used some wood; only bought half a cord of wood during the two and a half years I've run the mill; have exchanged shavings with Mr. Carpenter for all the other wood I have used during that time. I have been pretty considerably crowded during the last two or three months. For the two last months about as much as we could do; before the three months, had enough to keep us all pretty busy. The account I kept was not for six continuous weeks, but about one week in each month for six months. I kept it for my own accommodation; I did not expect ever to be called on for it by any one. I hadn't time to ascertain how many thousand I planed in each week; but I should judge from forty-five to fifty thousand, probably fifty thousand; we might break into a pile of five thousand on Saturday and not finish it that week. I could not go back and tell how many thousand I had planed in each week, but I could tell how much I had planed since the eighth of April. (The respondent's counsel desired the witness to hand to the master the account as he kept it.)

Direct Examination resumed.—In addition to planing, I furnished Mr. Mason with power. I contract with him to give him so much power. I have a forge where I do all the blacksmithing. The man I have is not a regular machinist.

Cross-Examination resumed.—The value of the power, if let to somebody else, I should think was two hundred dollars.

Adjourned to Nov. 19, 7 o'clock, P.M.

November 19.

Respondent's witnesses examined.

Albert Dailey, sworn. I have had charge of the planing business, and carried it on for the last eight or nine months in this city. I have charged different prices, according to the character of the work done. For planing boards, one side, I have charged two dollars and a half per thousand, five shillings off. For the last few years, there have been no regular prices for planing in Providence; persons go round and get their bids. Have run a mill since last March; have had a good deal of work to do, and if I can pay the planing mill's bills all up, I shall think I am pretty well off. I may make something; I should not want to calculate on much. I cannot estimate the cost of planing per thousand; nor do I think any man can, for when we have no work to do, the men's bills are going on, and the bills for rent, &c. I do not expect I shall derive any profit from the planing business; when I speak of profit, I mean, all things being considered, my reasonable compensation with the rest. If I come out square next March, I shall be well satisfied with it.

I am connected with another business which this helps, which is the reason of my taking hold of the planing business. I am engaged in the sale of lumber. I have, at this time, eight men steadily employed in the planing business; in the summer, more, averaging

probably nine men. I cannot easily say how many horses I keep in that business, as I am engaged in other business in which my horses are required; I reckon about two horses are required for the mill. I keep six or seven horses. I pay one man twelve dollars, one nine dollars, two men eight each, two men six each, and two four and half each per week.

I consider clerk hire to enter as one of the elements of expense. I did not reckon that as one of the above men. I do another business, and employ a clerk who attends to all, but I charge the planing business so much for clerk hire, at the end of the year, but I could not very well define what the clerk hire would be. The rent Tallman & Co. (of which firm I am one), pay is $1500, for the mill and the ground, with the barn and a dwelling-house, but we get the rent back from the dwelling-house, being about $150. I am acquainted with Mason's works, and with Dean's; I should judge Dean's shop with the grounds was worth the most; I should think so. I have observed the street near Mason's works is used for lumber. I could not swear it was necessary to use it; that would be a hard question for me to answer; I know that the street has been so used, though I don't know that it is now. There is a difference in paying rent in labor and paying it in cash. I could not say how much difference (it would be mere guesswork) there would be in rent of the two works, one paid in labor, the other in cash. I could not swear what Mr. Dean's would be worth paid in labor; if Mr. Mason's is worth $1800, I should think Mr. Dean's, taking the advantage of situation, risk of fire, and everything into consideration, was worth $2500, if Mason's was worth $1800; I don't mean to say that either of them is worth those rates of rent, I merely speak comparatively. In the present state of the business, it makes a difference whether the rent is paid in labor or in cash. At the present state of the business, I had rather pay $3000 in planing, than $1500 in cash, or any other sums in that proportion; I had rather pay double; my reasons are, that I don't always have planing on hand to do, and I should have this work, which, otherwise, I should not have to do, and my machine would stand idle. If I paid in labor, my rent then would cost me only the wear and tear of my machines; there would be time enough every day to do the required amount of work for rent, without extra cost of labor, &c., as the business has been for the last year. I use coal besides shavings; I can't say how much coal, because my coal bills have not come in. My machines were all new, and I could not give any estimate of the amount of repairs; we have to buy new knives. I have used something like a gallon of oil per day on the shafting and all the machinery—may not be quite a gallon—somewhere near a gallon, costing from $1 to $1 20 per gallon, depending on the kind used; havn't used any worth less than a dollar per gallon.

Cross-Examination.—I am directly engaged in carrying on the

business at the Tallman Mill. I pay all the bills and receive all the receipts of the mill. I have a foreman who attends to the labor, &c. of the mill; Mr. Tallman is interested with me or I with him. I do not superintend the minutiæ of the business—don't answer the calls of the men stating what work shall be done. I have a foreman to do that, who has long been engaged in the business. If a man wanted 5000 feet of boards planed I should go in and tell the foreman to do it; but if the foreman wants oil, he gets it; he comes to the office and gets an order for oil, &c.; so if a belt is to be replaced, &c. We use the Norcross machine; I cannot state whether it is as good or as economical a machine to use as the Woodworth Patent. I have no direct knowledge of a machine such as would be gained by working with it. I cannot state how much power is required to drive a machine. The machine I use is not capable of working more than one surface at a time. It will not work the edges while planing. To plane the edges, the board has to be changed to another machine. To work the other surface the board must be brought back and passed through the machine again. I have never made any estimate of the cost of working lumber per thousand feet by the Woodworth planing-machine, nor by any other planing-machine; as I said before, it is impossible to come at it; it is for me. It may be easy enough for others; I do not profess to know the expense of running steam-engines of different horse-power. I have an idea of what the power of my engine is; I have heard it called of forty horse-power; I don't know what a horse-power is; I don't pretend to know about machinery; I can't tell how large an area is occupied by my establishment; I could possibly figure it out; I spread a good ways, with barn and places for lumber. The extent for which I pay $1500 is about eighty by two hundred feet, including the buildings, according to my judgment. I can't state exactly; it may be more. The planing mill and the barn are the buildings upon the ground. I can't give the size of the building. It is a large one-story building, larger than any planing works in the city; no other building is used. There is power carried from our building to another building, but for no purpose connected with the planing business or my business. I think nearly all the ground is required to put up lumber to dry before it is planed. I don't use all that room, but I want it in case it should be required. As a lumber dealer, I put lumber near the mill to have it convenient to be planed. If I was not a lumber dealer I should hire the land I now use for the mill; I consider that I want the amount I now have for my planing business if I was not in the lumber business. There is very little of this ground now unoccupied; there may be some 40 by 50 or 40 by 75 feet unoccupied for the mill; these figures are all general. I have got it occupied; but if the lumber was sold to be planed it would stand there. The proportion of ground not occupied by lumber not intended to be planed, is the portion I have stated. It is not fully

occupied. A person may occupy two-thirds of the ground or half of it, whether he piles it twenty feet high or ten, it is rather cheaper to pile it ten. I have some 40,000 feet on hand under contract to be planed, piled. Mr. Dean's mill is situated on two streets. It is in a more central situation than Mr. Mason's. It is handier. My reasons for preferring it to Mr. Mason's may be good or bad. One can drive in teams and keep more lumber under cover in Dean's mill than in Mason's. Dean's is a brick mill, and I think customers feel more secure with their lumber there, and they bring more lumber there from that fact. It is of three stories. I have no knowledge of the size of Dean's engine. I don't know anything about machinery. Mr. Mason's mill is on the corner of two streets. I don't know which of the two is most convenient to cart lumber to. Teams can drive into Mr. Dean's mill. Mr. Mason's is an open front. Mr. Dean's mill would readily contain 40,000 feet of lumber. Mr. Mason can get a larger amount of rent in planing than any man would give if he paid in cash. I believe my engine is of forty horse-power. I do not use all the power of my engine for planing purposes. I pay so much rent for the building and ground, and agree to furnish power to the other building. I can't say what proportion of the time my machines run. I have four machines in all the branches. The moulding-machine would make five. Two of them are duplicates; we don't always run them at the same time. I am not in the planing-mill a great deal. I could not state exactly what amount of the time we run the duplicate machines, including the moulding-machine. We keep two machines running about half of the time. I have no knowledge of the amount of power used from us in the other building. It is not let. I have been in the habit of keeping the account of the planing business separate and distinct from every other branch except the box business. The box business is kept separate so far as this, that I can tell what it costs to make the boxes. I pay so much a piece for making them. I can't tell the amount of planing done in my mill for the six months last past, or the four months. I don't carry my books in my head; I could tell by my books. My estimate is made up by knowing about what I charge of planing done each week; what I pay out; what the rent is; and my idea from these is that the amount of profit is very small. I employ an engineer; I do not have a foreman also. The oil I speak of is used in the mill for the shafting and the machines, for all that is in the building, and I don't know but the oil is used for the long shaft; one man oils all the machines. The long shaft is that connecting with the other building conveying the power there. I have a circular saw which is properly connected with a planing-machine. Then there is the machinery for box making; there are two saws there. The building and machines we now have would do twice the amount of work we now do. I can't say how many thousand feet a machine would plane in a day. I never timed one.

Direct Examination resumed.—Mr. Tallman could tell what the value of the power furnished to the other building is. I do not know; I should think it was about $500 per annum, I suppose, or about that amount.

Cross-Examination resumed.—In the case of paying rent by labor, it would be like having the profit in my pocket, in that of paying rent by cash, it would be like having the profit upon paper. It is easier to do work to pay a debt, than to pay a debt with money; but if a man has plenty to do there is no advantage in paying in planing. Some of my men have been in the mill ever since the Woodworth machine started, one of them has.

Edward Luther sworn.—I was engaged in the planing business with Albert G. Sprague, at Mr. Mason's works, for about two years. The two years run out last April; the last day of April, I believe. He and I hired that mill of Mr. Mason. We paid the rent in planing; 1700 feet per day was the contract for rent, and we furnished power for his box shop. That was all, I believe. I and Mr. Sprague both worked there all the time; our time was fully employed, both of us; or I was there all the time and he was there or looking up work. We both worked with the men, and the men worked a great deal snugger when we were there; one or the other of us was there all the time. I don't know that I can tell for a certainty what we made; we made pretty good wages. The first season we did not do much, but the last season we did a pretty smart business. As near as I could calculate, take the two years together, we made not far from $2000 apiece. The last year we made the most. We have not a settlement fully. That is the amount as near as I can calculate. It was a good business for me; I was never in so good business before. We worked hard, and I think we earned it. We made no charge of the planing we did for Mr. Mason, but we agreed to do so much per day for him; some days we would do more, some less. For other persons the charge would be $3 17cts. per thousand feet; I never made any estimate of the power we furnished. We were to furnish power to make his boxes. Some days he did not want any power, but no account was kept of that against us. If we had paid an equal amount in cash we could not have run the mill; but if we could have had sufficient work to do, it would have made no difference. We considered that the amount of shavings we got from his lumber, would pay us for planing his boards; there were a good many days when we were short of fuel, and by planing those boards we obtained a supply. Mr. Sprague and myself talked it over frequently, that if it was not for planing those box boards, we could not afford to run the mill. When we run the mill we were obliged to use the street as storeroom; the lumber was dropped in the street generally. We could drive one horse into our mill and drop a few boards. We occupied the street and the sidewalk. The lot on which the mill stands, is about 64 or 65 feet square. We occu-

pied two other lots, each about the same size; one of these was in front of the mill on the opposite side of the street, and the other was in rear of the mill. We made a practice of stacking lumber for customers. We planed several cargoes in that way; we took the lumber green, and stacked it until dry, when we planed it. We hired another lot, of about the same size, for four or five months the last season, to stack lumber on; finding that we wanted more room. We hired it by the month at the rate of $60 per year. Our help we did not employ regularly, sometimes we had six hands, sometimes less; generally two; on an average about three, from two to three, besides ourselves. I could not state particularly. We could pick up help at any time, sometimes for a day, or a half day, or two days or more just as our interest required. To our common laboring help we paid five shillings per day. To our engineer ten shillings about all the time. A man to run the machine we paid from $1 25 to $1 33 per day; we did not employ such a man all the time. I run it part of the time, Sprague a part, and our engineer a part of the time. It is pretty hard to say what it would be worth to do for another man, what I did there for myself. I should want pretty good wages. I should want $2 at least. Some days I had not so much to do as on others. I should want $2 per day to work as I did there and then. I am some acquainted with Mr. Dean's mill; have worked in his clapboard shop but not in his planing-mill; I am acquainted with his mill. I dont know as I know how much land he occupies. I don't know anything about it, or whether he hires any other lot than that right around his mill. There is a lot he occupies near there, or at least I occupied it while I was there. I piled up clapboards there, and there was a pile of lumber there. I should be willing to give more rent for Mr. Dean's mill than for Mr. Mason's, for I think I could do more work at Mr. Dean's. I think the machinery there is in better repair; the engine is larger and in better repair. It is more convenient for driving into the building with lumber. I don't know as the general locality is much better, the streets are wider than at Mr. Mason's, one can drive in at either end of Mr. Dean's, the building running from street to street, but we could only drive in at one end at Mr. Mason's generally; we could drive in at the other end, but not handily. I should think Mr. Dean was not neglectful of his business; he was not while I was with him, which was not far from six weeks. I think he attends to his business as closely as any man in the land; as closely as we did. Mr. Dean was round with his help and they seemed to work as well as with other men; he is a stern man in his business, wants about as much done per day as any of them, and I guess he gets it. We run the clapboard machine at Mason's establishment at $3 per thousand; we furnished the help and he kept the machine in repair. Mr. Mason had nothing more to do except the collecting the bills; he took the risk of that. This business of running the clapboard

machine was done by us, in addition to our other business, and was a profit to us. I sold out to Mr. Mason when I separated from Mr. Sprague, all the interest I had there, and I supposed Sprague did. The understanding at that time was that he was to do so, but I don't know whether he did or not. I received a check and gave a bill. Mr. Sprague was there and there was something said about a settlement with him the next day, but I know nothing of his selling out.

Cross-Examination.—There was also power furnished to Mr. Weaver in the room over the planing-machines in addition to what I have said. We were to furnish power (there was no written contract), and to plane Mr. Mason's board when he wanted it. We run the engine sometimes to accommodate him, when we had no work in the planing-mill. The fuel furnished by his planing, we regarded as of some value at times, and at other times in our way; in the first season, it was a help to us. We talked that over; Sprague, and myself, and Mr. Mason used to think it a help. Our business was increased by the burning of Mr. Tallman's mill and Mr. Kenyon's. Our clapboard business was increased greatly by the burning of Mr. Tallman's, for we had the only clapboard machine then in the city. A part of the ground occupied by us, is now occupied by a building; I mean the lot (about one-half of it) across the street in front of the mill. We had lumber that lay stacked in piles three or four months; we piled it up green, and let it lay till the owner wanted it; generally, when lumber was brought there, we got it out of the way; worked it as soon as possible. The lumber dropped in the street we moved away, as soon as we could get rid of it. The first season we had but one cargo of lumber stacked; I think that was stacked there, when we hired the mill; but the last season we had several cargoes. I could not tell more nearly; I was not very particular to look on the book to learn the quantity of lumber we did plane. Common laborers could be had for a quarter, or half, or whole day, just as we wanted them. Irishmen, about there, could always be so had, and we were in the habit of hiring them so. When we did not run the mill, we did not pay any help. I don't know that there is much advantage in the location of Mr. Dean's mill over Mr. Mason's. The street near Dean's is wider, and more convenient for teams; and in his mill the lumber could be housed after it was planed. In Mr. Mason's we could not always do so. Lumber is generally about twenty feet long. The wheels of the horse-reach would generally be from twelve to fourteen feet apart; it depended upon the length of the lumber. We could not turn a wagon of that size in Mr. Dean's mill, if loaded; if unloaded, I think one might. Since I have been at work at Mr. Dean's, I think there has been as much unloaded within the mill as at the door. It depended on how they were situated in the mill. I could not state positively. If they were full in the mill, they would have it unloaded outside. It is pretty hard to tell, what is the average daily work of a Woodworth machine;

I don't know as I ever made a calculation. Take box boards, you can run through ten thousand feet in a day. I don't think you could average that. I don't know, as I am capable of judging, how much could be done. We have run through 10,000 feet in a day; the machinery must be in good order. The lumber would be dropped in Mr. Mason's mill from forty to fifty feet from the machines. The mill covers the lot; one machine stands at the farther end of the mill. The lumber was generally dropped on the gutter in the street. Two machines stood about the centre. We could get with a team to within twenty to thirty feet of the place where the lumber is dropped from the machine when planed. A team cannot be driven into the backyard and run the machine; not handy. It would not be difficult to back in from Page Street, if there was not lumber there. In getting into Mr. Dean's mill, we can back into it to deliver it. If there is any lumber in Mr. Mason's mill, we could not back into his mill. We frequently had to saw off boards piled up in that mill to enable us to shut the doors. Lumber comes different lengths. The usual length is twenty feet, we have it sixty feet, but not often; have had it forty feet, and thirty, but not often; I ain't particular about 60 feet; I wont say 60 feet; but we have had some very long boards. I don't know as we have had any 60 feet; we have had some which would reach ten feet out of the building, when one end was on the machine, I mean on the groover. I don't know, whether we had a team to back into the mill; I don't think there would be any difficulty in doing so under some circumstances; as a general thing we could not, it depending on the lumber in the mill. We could drive a horse, and reach into the mill when there was no lumber on the floor. I can't say, whether Mr. Dean has planed as much lumber since he has had his new machine as before; I don't know, but I should think he had. The arrangement respecting the clapboard machine was a distinct matter from the other; we planed clapboard at so much per thousand. I never knew but a very little about Mr. Dean's business before I went there; I worked there three weeks ago. I thought, while I was there, he worked pretty snug. I speak of my knowledge of Mr. Dean's business within the six weeks I was there, and my statements refer to that time. Mr. Davenport was there when I was there, and I think he has been there the last year; I don't know but more. I understand that he was the boss of the planing-mill. Mr. James Cornell was there before him. Mr. Dean was all round the mill, while I was there. I know of no other business he has attended to this last year. Previously he was a house-joiner or house-carpenter. I never knew much of him, till this last summer; a very slight acquaintance before.

Adjourned to Nov. 20, 7 o'clock P.M.

Nov. 20, 7 P.M., met and adjourned to Nov. 21, 7½ P.M.

Nov. 21st, 7½ P.M.

Ray Clapp, sworn. I carried on the job-planing business in Pro-

vidence some 8 or 9 years ago. I can't state exactly as to date. I think it was about in 1844 that I stopped. I was on Fox Point; used the Woodworth machine; had had some practice before on the site of Mr. Mason's works. I was in the business some four or five years; part of five years. Prices were higher for the work when I first started. Then we didn't pretend to do the teaming, though we would do it. I can't tell anything about the prices of planing now. The Fox Point establishment was unprofitable in the first year we started. I started with R. L. Thornton & Co. Stanford Newell was in the firm. I had one-third of the concern, and made use of it. It was unprofitable to me. After running one year, I lost $1084 on the sale of it. I sold low. We kept a correct account of the profit and loss. Mr. Newell and myself went into it correctly; his health became bad; he gave it up; I was obliged to go on; I don't know whether any person engaged in the business has found it profitable. Couldn't coax me into it. How profitable it is now I could not say. The profits will depend on the rent of the place. After paying rent, labor which is cash, and bills for oil, carting, &c., at the end of the year, one may find out whether it is profitable or not. In running our concern, the account was entered of the planing from my book, my blotter. We had bad luck with our machinery; our engine was bad. An account for five or six weeks might induce persons to go into the business, but then a smash might come, which would throw you all aback. One had better plane for nothing, if they can get the work to do for the sake of the fuel, rather than buy coal. We burnt 36 tons of fine dust coal in six weeks, costing about half a dollar per ton, landed on the wharf. It is an object, if you have the help on hand doing nothing, to run through 1500 feet or so, so as to keep ready for the work we have to do, for little or nothing. I have done it. The profit would depend on the price. If you have a large lot it would become profitable. If you take several small lots at the same price, and have to alter the machine for each, you could not make much. The jobs done here are in small lots; generally they come as men want them. We sometimes took jobs which were large very low. I have known Mr. Dean's works for the last year and a half; have been there frequently; should think Mr. Dean had managed his business prudently from anything I have seen; don't know anything to the contrary. Dean's is larger than Mason's; could do the most business in Dean's, should think. Don't know whether men would carry work to Dean's in preference to Mason's. It is impossible for me to say at which mill work can be done most conveniently; can plane boards at either place. I don't know as there is any great advantage of Dean's over Mason's for locality; one is about as central as the other (Dean can take his lumber under cover); I don't know as there is much advantage of one over the other in that respect; can have lumber carted to any establishment in the city; have had work done at Tallman's, Kenyon's, and Dean's; havn't had

much choice where it was done; the persons whom I worked for had sometimes made their arrangements for planing. I didn't care much which mill it did go to.

Cross-Examination.—I think I can furnish an estimate of the business while I was in it. (It was agreed that the witness should at an early day hand the statements he referred to, to the master.) In my practice, I don't think taking any six weeks would show by the expenses and rates of planing the profits and expenditures of the business for the year. An estimate for that time might satisfy some, but it would not satisfy me, nor induce me to go into it. I can tell the expenses of a day's work, not of planing a single thousand of boards. It is possible to tell what the profits of the business are when one has just work enough to do, and keeps just men enough to do it, has just machines enough and power enough, but I never knew such a case; there is never good luck without the bad. To ascertain the profits I should calculate the expenses, the rent, &c., and at a certain point in the day we may begin to make profits. In different kinds of work there are different profits. If the jobs are mixed, and we have to change the machines for them, any one can judge as well as I can of the profits. It is some five or six years since I was engaged in the business. I often had difficulty with the engine in the first start. There were four owners, Nathaniel Bartlett, Thurston, Newell, and myself; after the first year, I run it with Tallman and Bucklin one year, or a little over, when the establishment was sold out to Mason and Brastow. I kept the accounts of the establishment both years. We had bookkeepers. I made the charges, made the trades and contracts. I made the original entries on my blotter. I have them now, I believe. I have seen the machines used previously to the ones Dean has now. I am not familiar with those he is now running. The machines of the Woodworth patent which Mr. Dean run were not as good as those of the same patent which I run. The person, Mr. Schenck, from whom he had them I had mine from, but I went to work and improved mine, put in metallic boxes; we were obliged to, they heat so. I had a double surfacing-machine, and a tonguing and grooving-machine. I think the last cost some $60. I had it built, and gave particular attention to it. The first, the iron machine, cost about $400. I think it was. I don't know what Mr. Dean's iron machine cost.

Direct Examination resumed.—I think it is an object to keep experienced hands in pay ready for work, other persons think otherwise. I kept two of the best men in the country. I think it was worth all we paid them to carry on the business. Dean had one machine which was the best of the Woodworth patent I ever saw.

Ephraim Martin sworn. I was in the planing business about five and a half years, commencing in January, 1840, and ending July or August, 1845. It was job-planing business, at the works now known as Mr. Mason's. I should want to take one or two years in

order to get at the profits of the planing business; one year the business might be good and the next not, as in the year 1842 the business was very poor with us. A calculation based on six weeks would not be a fair calculation for a year and a half; one six weeks might be good and the next not. For four months, one of the fall and the three winter months, the business used to be very dull. If a person could lie still during that time, and not lose the custom in the spring, it would be better; not having much to do in that season, but once in a while a little job. I should want to take into account the dull season of the year in making up my estimate of the profit. In the jobbing business it is necessary to do small jobs to retain custom. I have done small jobs which I would rather not have done, or have given three or four times what it came to; for this reason, the carting, at one time, was only done one way, and that carting often came to more than the price of the planing. We did the small jobs hoping to get the bigger ones sometimes. Always had to keep on hand about the same force, except a laborer or two. I believe I used to hire by the year, and pay them whether we had work or not; good men could not be hired in any other way. We sometimes dispensed with a laborer or two when we did nothing at all; but other expenses at those times would travel right along. It would make a difference in favor of the operator to pay his rent in labor; he could do the work at odd times when he had little else to do; if he had to do the work when it interfered with other work it would not be quite so favorable, but it would not then be quite like paying money. It would be a great advantage to an operator to rely on having to plane 1700 feet per day, if he could do it, not that amount each day, but could do it sometimes some 8 or 10,000 in a single day, when he had but little other work. I know Mr. Dean's works; I had for a while the superintendence of them, in 1846 and '47, at the commencement of his work, after I sold out to Mr. Mason; the next year, or the year after. I know of no reason why Mr. Dean's business has not been conducted as prudently as any man's; he had a man who was experienced, and who had been in the business a great while, to take charge of his machines, and keep them in running order; his name was Davenport. I can't say that I ever saw idling about his mill. In running these machines they sometimes run for three or four hours, and then a change is made in the machines, when the men would have to wait until it was ready again. They are getting machines which are more readily changed; whether Mr. Dean has one or not I don't know; but he must have had it somewhat recently, the past year, if at all; Mr. Dean in industry and diligence is hard to be beat; no more industrious or diligent man has come to my notice. The last part of my running the mill we did some cargo work, and we began to get into the way of stacking up lumber, which we did without any additional charge, in order to compete with Tallman & Bucklin, and others, who had room. Prices

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of planing, when I was in the business, were 20 or 30 per cent., an average of 20 per cent. higher, besides the teaming, which is now thrown in. It would be hard to find any of us who got rich in the business. In 1842 we lost some thousand dollars by keeping in running order without sufficient work. I should think there was not much profit in the business at the present rates. I should rather put money in other business. It is perilous business; expensive for repairs for machines running rapidly. I run three machines; two all the time I had work, and another to change for varieties of work; planed as much, on an average, as was planed at any of the mills, rather more than is now planed at any of the mills. I don't know as I know the public mind as to whether men prefer to carry their work to Dean's or to Mason's. Dean is no closer a fellow. People like to carry work to him if they are not obligated to carry it to somebody else. I was not there, nor in the city, in the latter part of 1847 and fall of 1848. The rest of the time it has been my way to be in and out; have carried work to Dean's sometimes. The lumber could be housed at Dean's and kept there until delivered, which is very material to builders and others using dry lumber; otherwise than that, I don't know as a man could plane a thousand feet of boards at any less expense at Dean's than at Mason's. There would be a difference in rent, as there is a much larger expenditure at Mr. Dean's in preparation than there is at Mr. Mason's.

Cross-Examination.—I might tell for one month what I made; but to learn the average profit I should want to take two years, as bad times, when there was little work doing, might occur. We call it pretty hard times this last year about money. I found fluctuation in business. There has not been such a crisis in business in the last two years as there was in 1842 with me. It is the general opinion that there has been less mechanical work done here recently than formerly; more brick buildings built recently. Take out '42 I should think business has been quite uniform, and for the two years recently. I think I hired my hands most of the time by the year. I required two men running the machines, an engineer, and a fireman. I guess we had to keep them all the time. We had both engineer and fireman. They might have been off occasionally at their own expense; but generally they were in employ. The engine is the same, or was a few months ago, which is now in Mason's works, which we used. The boilers are not. One year I had two partners besides myself; one year one besides myself; the rest of the time I ran alone. I never operated the machines personally; once in a while one of the hands might attend to them a little. When I had partners we were doing building and the box business. We carried on all the business we could; did not do a great deal of business. When I was alone I did the box and planing business, but no building. On the average, through the year, I could not tell what we did weekly. There would be months in the summer when we got out

80 or 90,000 feet a week, besides our own planing, which was from two to three thousand feet per day, for box business. I kept the box and planing accounts together. When I had partners the accounts of each branch of business was kept separate. In the above account of planing, I speak particularly of the last three years I was in the business. I don't know that I could tell accurately what the ground-rent would be, suitable for a planing-mill. Ground-rent was high. I don't know what rent Kenyon's mill paid. The land belonged to one of the company, and he let it to the company. The company failed, and stock sold at fifty cents on the dollar. I shouldn't want to undertake to say what a proper rent would be. I should think it difficult to get such ground as I should want for $300. Charles Dyer would want nearer $1000 than $300 I think. I have made an estimate of the cost of a mill. I have thought the best way to do the business was to have one machine and keep that running; a mill of that kind would probably cost $5000, with suitable power to drive it. If I was to go into the business, I should get as good an engine as I could get and one machine. That is all the way money can be made at planing as I conceive. A thousand dollars invested in a planing machine is not worth more than $400 or $500. I never knew a planing-mill to sell for what it cost. I cannot give an estimate of the cost of planing a thousand feet; one might plane a thousand feet pretty quick if nothing happened, and yet be a good while planing the next thousand.

William Davenport sworn. I have been in the planing business 22 years. I have been in New Bedford most part of the time, until I was burnt out, when I came here to work for Mr. Dean. I was in partnership, in New Bedford, with my father. I started a mill in Boston, for R. Urand. I started his machine; Emory succeeded him. I started a machine in Lawrence City, for the Manufacturing Company there. Been with Mr. Dean now going on four years. The prices in New Bedford were $7 per thousand for planing and matching, $5 per thousand for planing both sides, $3 for one side, and $7½ per thousand for planing and butting clapboards. We did no teaming; never heard of teaming until I came to this place. The prices in Boston, when I worked there, were the same as in New Bedford. I started Urand's mill; and when a man came to me and asked the price of work, I told him the prices given to me by Mr. Urand to charge. I was in that mill nine months. I am foreman for Mr. Dean; have charge of his mill; run a machine; and make the repairs on it when it breaks down; attend to the receiving and delivery of lumber; make the charges on a memorandum-book, and render them in every Saturday night. I don't think much less than a year, or a year and a half could be taken to obtain a reliable result of the profits of the business. There is much work that we do not get anything for, which we take that we may get other jobs. That is, we had better not do them, as it takes so much time to alter

the machines for them. I have altered the machines to plane one plank for a man. The teaming business spoils the planing business in this place. I have, a great many times, sent a team down to Fox Point to get 200 feet of lumber, plane it, and send it up to Federal or Christian Hill, *i. e.*, to the furthest part of the city. In such operations, there would be an actual loss. It is necessary to do this for small jobs, in order to get other work. I have frequently stopped work on a lot of lumber, to do 200 feet, because the owner would say he would carry it to other places. I don't know why Mr. Dean's establishment should not be economically and prudently managed. It is as much so as any mill I ever worked in, I think. I should think he had no superfluous laborers; I havn't seen any. If we have work, we start at 7 o'clock, and work till 9; we don't stop. We have had as good help as could be got, for Irish help; good smart fellows to work; good steady fellows; we have but one man to run the engine and fire up; he is engineer and fireman. When the engine is out of order, I put it in order. We keep an Irishman to fire up; we don't keep an engineer to attend the engine wholly—not of late; some year and a half ago, we had a man who tended the engine, started it, and oiled it up, then started the machine, and attended to that; run that during the day. Mr. Dean quitted his carpentering business the latter part of last December; sold out his carpentering; since then, he has given his whole time to the planing business. Previous to that, he was in and out of the mill all the time. He frequently would go with his horse-reach and draw up a pile of lumber to plane, when the other teams were busy. He is personally diligent and attentive; as much so as any man I ever saw; he is a hard-working man. Mr. Dean has required the land he has occupied for stacking lumber, for the last year and a half. If we did not stack the lumber, we should not have the planing; had to do it for the sake of the planing. We hired a lot last season to stack some lumber on, to plane for James A. Potter; we do, or have done, a great deal of planing for him; he is a lumber merchant; no extra charge for stacking. This lot of lumber was 60 or 70,000 feet; we could have the planing by furnishing a lot to stick it up. We stuck it up, and planed 11,000 feet of it; the rest was sold without planing. Then, in planing these boards, we have them all to remark—that is, put on the surveyor's marks, which we plane off. We get nothing extra for that. This sticking makes it necessary to hire two men extra. We have to cart it, stick it up, and when it is seasoned, cart it to the mill, plane it, and then pile it up again. Mr. Dean run the planing machines prior to August 29. We use shavings for fuel; sometimes we get short of shavings, and have to burn coal. I am some acquainted with Mason's establishment; Mr. Dean's would bring the greatest rent. It is a larger mill; we can work there wet or dry; keep lumber under cover. I should think there would be a material difference in the rent of the two. We can get

along with less men than Mr. Mason could; we can drive the lumber into the building. At Mr. Mason's they have to back it in on men's backs. Mr. Dean's mill is constructed as well as a mill could be, for that purpose; constructed as well as it could be, at the time he built it. I didn't know it was built for a mill, when he built it; I mean for convenience, protection from fire, &c.

Cross-Examination.—I don't know justly how long it is since I left Mr. Urand's mill. It is more than twelve years since. I went back to New Bedford then. About a year and a half ago the prices in Boston were as I heard about the same as here. Sometimes it is through the spirit of accommodation, and sometimes owing to competition that the machine is altered for a single plank. I have frequently told Mr. Dean I would not do it for any one. We employ two men to run two machines, the man who planes the boards throws them off; when the two men get through bringing in the boards they carry those planed out. Three men will keep three machines agoing, besides the man who runs them. It would require about four men to keep two machines going if they are not speeded up too fast. Then we had to keep two men to saw boards for the matcher. Sometimes we run the matcher all day long and not stop; then it would lay still two days without running but very little; not have it to do. It would not lay still entirely two or three days. It might run off a thousand feet a day, and then it might run a week without stopping. The matcher which we had there last, might run through 12,000 to 14,000 feet—along there—per day of ten hours, if nothing happened to it. The work was not very regular, sometimes we had to get an extra man; sometimes for a week we had only two men besides myself. When we had nothing to do always let men go. When we had nothing for them to do their wages stopped. I keep the run of the time when they are there. If I get out of a job at 12 o'clock, I let them go after dinner, don't keep them when I have nothing for them to do. Before I took charge of that mill, when I was running a machine, my wages stopped as others. Sometimes men have gone off of their own accord at a quarter of a day when there was nothing to do. It was so with me before I had charge of the mill; and it is so now if men go of their own accord, men's wages are cut off at half a day. At the speed we put on to the double surface machine, if we have work to do for ten hours we might get off fifteen to twenty thousand feet per day of ten hours. With the single surfacer we can't get off more than from 8000 to 10,000 per day. We pay our laborers one dollar per day. Ten shillings and sixpence to two dollars to men who run the machines. The engineer has one dollar per day. Dean keeps four horses; I believe there are five—four or five. Mr. Dean in his box business uses somewhere in the neighborhood of 4000 to 5000 feet per day, and before the carpentering was given up, he used 8000 to 10,000 feet. We use about half pint of oil per day on all three of the machines; not much oil required to

oil the engine up. In the lower part of the mill we use about a quart of oil per day. Mr. Dean lets out power, but he has no more than he ought to have for his own use. The engine is called 30 horse-power in Philadelphia; she is called 20 horse-power here; we are driving her at 140 to 145 pounds to the square inch, all she will bear. It furnishes more power than is required for the machines. I do not what he receives for the power he lets. (Respondent's counsel stated that Mr. Dean had considered that matter in making up his statement.) The oil for the engine is not much. There is shafting carried through the mill to convey power to other parties. The quart a day is used on all the shafting and other machinery in the lower part of the mill. We should use the quart of oil if the power was not furnished to other parties, or other parts of the mill. We fill the boxes with oil as we did before the connection was made. To drive a groover and turner it requires an eight horse power. The stacking of lumber sometimes is done for 4000 feet of boards, and we often have to put 4000 feet in a hothouse and dry it; we have 75 cents per thousand for putting in and taking out boards from the hothouse. We have to put steam in to warm it.

Nov. 22d, 7 P.M.

Jesse S. Thornton sworn. I have been concerned in an establishment for planing, in Pawtucket, since 1842 to 1843; I believe we commenced one of those years. I have not personally charge of a planing establishment. It is a job-planing establishment. We do all the work we can get to do. I have never arrived at the time when I could find a profit in the business. I don't know how many more years it will take to come to that. In order to get at the profit I think it could not be done from the work of a week or a month, but I should think if you are going to get at it right along, it would take six months or a year, for we have to keep the establishment ready, and some parts of the year we have more to do than at others. The prices at present in Pawtucket are $2 50 for planing one side, common boards, $3 00 for planing and matching lots of over a thousand feet of spruce and other such hard stuff per thousand, and $4 00 per thousand for hard pine. No drawback for teaming with us upon our prices. Should not think it an object to carry on planing business distinct from the lumber or box or some other collateral business. It depends very much, as to whether we can make anything by planing, upon the quantity we can have to plane. I use the Woodworth machines. We have two machines, but hardly ever use but one now, that answers all our purposes.

Cross-Examination.—Cannot state the number of thousand feet planed by my machines per year. It is quite difficult for me to say what proportion of the year my machines are used; I should say half the time, that is one machine; I can't speak with any certainty. I am not able to say whether we keep an account of that part of the

business separate and distinct. I think not though—presume not. I cannot state how much my machine will dress per day. We always have a man to tend the machine, one to take away the boards, and one and sometimes two to hand them in. If there is an extra quantity of planing and business crowds, we get more men. I should think we did not keep four men on hand all the time for the planing business; should think not more than two. We keep one to take charge of the machine steady, and one steady man and one fireman sometimes, I believe. I don't know much about it; I cannot state positively whether we have more than one man, steady all the time, I know we have one who tends the machine. I regard the shavings of value in keeping up steam. We regard them as being worth considerable for that purpose. The engine is of more power than is required to drive the machines. We rent power there to be used for other purposes. If we could have enough work to do all the time, I think it would be a business of some value. I have never heard Mr. Kent say what the cost of planing was. Mr. Kent is not a partner, he is only an agent there. When I said the business at the prices I have named was not worth following, I didn't mean to be understood that it would not be worth following at those prices, if we had work enough to do. We don't make boxes. I am concerned in the planing establishment; I built it entirely and since that I sold out, owning now but one-twelfth; being concerned there I give them all my planing. If I were not concerned I might, as one of my neighbors does, go to Turner's in this city, who does the work for about half the prices I have named. He, I understand, has bought a right of Mr. Mason to do so. That is the reason why the business is no better, because we have to compete with such establishments as that and some others. Mr. Turner never offered to plane for me, but he planes for my neighbor Jo. Smith at half price, I have no doubt he would plane for me at the same. I should not think taking six weeks together, would give an accurate estimate of the expense of a planing establishment, for six weeks at one time and six weeks at another, would give quite a different result. If you take that time on the idea that it has a full supply all the time, it is just as good as six months. If the mill has a regular supply, I don't see why it would not give an accurate estimate; I can't conceive of such a case.

Direct Examination resumed.—Planing establisments are liable to accidents.

Charles K. Richmond sworn. I was clerk of the Union Planing Company from 1846. I am still, I suppose. I am not discharged. It is defunct. I was part owner at one time. I kept the accounts of the concern; had no oversight of the workshop, was in and out there, it was not my place exactly. I should want to take the business of a year to get at the average result of the cost of planing a thousand feet, if I was required to present such an estimate. It was

a job establishment entirely or nearly so. We planed for the owners as well as for the public. The reasons why I should want to take the business of a year are, that I suppose there is more business in the summer time than in the winter; a great many days in the winter we laid still doing nothing; some days it would be a loss to us to do small jobs to accommodate the public, if we were drove up with work. If we were doing a large job, and had to stop the machine to alter it for an hundred or two feet, it would be a loss probably. When men were standing round because we had nothing to do, those small jobs would be a gain. The works were burnt in 1849. They were in operation about three years. The business was I should say a losing business. The stock depreciated before the mills were burnt and was sold at a loss. It was hard to tell how much it depreciated. I believe it was generally traded off; that is the way I got rid of mine.

Cross-Examination.—If the business was without any material variation through the year, the profits could be got at by taking the business of a less time than a year, and an accurate result would be obtained. To get at a fair estimate of the cost of planing, I should take the expenses for a given time, and the number of feet planed, taking into consideration the wear and tear of machines. I should not think an estimate for six weeks in May, June, or July, or taking the two months previous, would give a fair estimate, for the business is not so good in the winter months. The reason why it is not a fair estimate is that the business varies. I was not a practical operator. I never attempted to make an estimate, from my experience in the Union Planing Company, or from my knowledge of the business, of the expense of planing a thousand feet. Part of the men we employed in the Union Company, were hired by the day, and part we were obliged to pay whether they worked or not. There were five of us belonged to the concern who had steady pay. The rest we hired as we wanted. We had sometimes three men extra. When in operation, we had six; one man to tend the machine, one to take away the boards, an engineer, a fireman, an agent, and a clerk. The agent took charge of the mill. The engineer had $2½ per day, the fireman one dollar, I think we paid the man who tended the machine nine shillings, and the man who took away the boards five shillings. The agent's compensation never was agreed on, he was the largest owner and never had anything credited him for services. The clerk had $500 per annum; transient men were generally paid one dollar per day. The supply of work to the mill was not one-third compared with its ability. We did a great deal of work for Mr. Kenyon, which I suppose we should not have done had we had other work. We had in the mill three machines and a clapboard machine, belted; all Woodworth machines. Our engine had more power than was required for the work we did, but not enough to run all the machines at the same time. The boiler was not large enough

to make sufficient steam for the power of the engine. We let power. We almost always had stuff enough of Mr. Kenyon's to plane, when we had nothing else to do. Sometimes we planed old refuse stuff for the shavings, to have some fuel to fire up with in the morning; that was done late in the afternoon; not a great deal of that done, but occasionally. We had ground room enough for our purposes and in a good location. We had more ground that we used that we did not hire. We hired a small portion and used the rest. The land belonged to Mr. Kenyon. We paid $300 per year for it, that is we agreed to pay that. The ground hired was considered sufficient for the business for small jobs, perhaps we could have packed the lumber closer if we had been obliged to. The cost of mill, rights, and machinery, was somewhat near $15,000 to $16,000. The cost of putting up a new roof after the first fire, was about $1100 more. It was I believe regarded as a substantial mill, well put together; we intended to have everything about first rate, building, machinery, &c. Albert Sprague was employed there for a year. It was built under Mr. Kenyon's superintendence, and I believe Mr. Sprague was about there, and planned perhaps part of the building. He had charge of the mill the first year. I think his salary was $700; that is my impression now. The work for Mr. Kenyon was charged to Mr. Kenyon at full price; nothing ever paid on it, no settlement yet. When the mill burnt he owned fourteen-sixteenths of the stock; he was always one of the principal owners; he had owned that amount about six months before the mill burnt, I believe, I can't say exactly. Originally he owned three or four-sixteenths, I think. During the three years, we did more planing for him than for all other persons put together.

Direct Examination resumed.—Champ. Kenyon dealt in hard pine lumber; the soft pine lumber belonged to me and Mr. Kenyon's son, who was in company with me. The profit of a mill would depend on the supply of work. We could take 15000 feet and plane it at a less proportionate price than we could 500. We could plane 1000 feet for one man, for less than we could plane the same amount for four men. We nearly always had to surface boards for each man, of two different thicknesses, $\frac{1}{8}$ and $\frac{3}{4}$ of an inch. Whenever we took a large lot to plane, we planed it at different times, not all in one week, and when we finished it, we charged the whole; this is one reason why we could not tell the amount of planing done in each week. The actual cost is more on small jobs. We could not plane 5000 feet in a dozen different lots as cheaply as we could in one lot; we could not do it as quick, but we got the same for it. I meant to refer to the uncertainty of having anything to do, when I replied to Mr. Payne as to the difference in profit. Sometimes we hadn't anything to do. We had to keep the engine running even when we had nothing to do. We must do our jobs as they come along; be as accomodating as possible in order to get work, there are so many mills. We

did a small job sometimes in hopes of getting a larger one. There were, a part of the time we were running, five mills in the city. I believe the down-town mill was burnt down and rebuilt.

James Cornell, sworn. I was employed by Mr. Dean about three years and a half. I left him the 21st or 23d of April, 1850. I was clerk and foreman of the concern. I had charge of the mill, and oversight of the hands; receiving work and delivering it. I should want to take an account for three years, in order to make an estimate of the profits of the planing business which would be satisfactory to me. That was the time I was at Dean's. There were no two years when the business was alike. The first year we did a great deal of small jobbing, more so than the last. The second year we had a great deal of California lumber to do, which was done very rough, on which we had the same prices as on other work, which made the cost per thousand in the year much less. We changed our feed motion from a six to a nine or ten inch pulley. The board, under those circumstances, would run through very quick, but the cutter made no more revolutions. I think no reliable opinion can be obtained on an estimate based on the work for any period less than one year; my reasons are, that the profits depend on the different kinds of work, the size of the jobs, and the amount of work. I should consider from February to November to be the best season, the other part of the year would be pretty slim. I have planed lots of lumber, not exceeding 500 feet, four different thicknesses. There are many jobs in an establishment like Mr. Dean's that are in reality a loss to the establishment. I should not suppose one would accumulate any work if he should stop to do it all in one day. I shouldn't suppose people would leave you jobs under those circumstances. I should suppose about a gallon of oil per day was used on the engine and the machines and shafting below; there was more used about the building. The oil was procured under my direction. I think we averaged about eight gallons per week, until Mr. Dean rolled some in by the barrel; I can't give any estimate of the amount then used; I should think there was not much less than before. We used sperm when I first went there, at $1 20 to $1 30 per gallon; at the last we got it of the poorest kind; that was until Mr. Dean bought by the barrel, and that was patent oil. When I first went there we were paid for teaming and sticking lumber; the last part of the time we teamed it and sticked it gratis; that latter time was about a year and a half I should think; I can't tell certain now. The ordinary cost of sticking a thousand feet of lumber is twenty-five cents; some heavy lots of plank will cost more than that. The height of the pile is also to be taken into consideration. Sometimes the cost is less, twenty-five cents is about an average. It would be hard to tell whether teaming gratis originated with us or we followed others' example; our customers required it of us; they said they could get it done at other places.

Cross-examination.—Had charge of Mr. Dean's books. No charge of any other branch of his business than his planing. Mr. Dean was carrying on other kinds of business during the time I was with him, and pretty extensively. I think he has given some of those branches of business up. The carpentering business he has given up. He has continued the box business, I presume; I see it going on there, that is as far as my knowledge will go. I should suppose he required from two to five thousand feet per day for his box business; I could not give a definite answer. I had charge of the business, and considered, when he was not there, I had full charge of it, and, when he was there, that it was with him. I cannot state whether a machine would furnish sufficient fuel for the engine of proper proportions; for I do not know what the proper proportion is for an engine to a single machine; whether it would be in proportion to a larger one or not. One kind of patent oil we had was very bad, and one kind was very good, better than sperm. I do not know the amount used after the barrel was rolled in; had no means of measuring then. We used dust-coal when I first when there, worth about $2½ per ton; afterwards he used chestnut-size coal at $4½ per ton; considered that to be cheaper. I don't remember the amount used of coal; it depended on the amount of work; sometimes he used none, and then again he had to use all coal, the reason for the latter was, there was not work enough to furnish fuel; hard pine lumber will turn out twice the amount of fuel to other lumber. Mr. Dean did not carry on blind and door and sash making when I first went there; he did the latter part of the time. He had what machines belonged to the box business when I first went there; he has had other machines of various kinds since. He let power all the time I was there. I should think his arrangements to furnish power were such as to render it necessary for him to keep his engine running all the time, to supply the power. He frequently, when he wanted to stop, looked out beforehand, so that he could stop, by making arrangements with the persons up stairs engaged in his other branches of business.

Sterry Kelley, sworn. I have been in Mr. Tallman's planing works from fifteen to twenty years. I attend to the planing machines, and operate them myself when I am not keeping them in repair. I superintend all the machines now, but only the one I operated, some years ago; I have superintended all the machines seven or eight years; been foreman of the shop. On the Woodworth machines we used to use about a gallon of oil per day; I don't know how much for a certainty; we bought it by the barrel, and when we wanted it we went in to get it, and they said we used about a gallon per day. I could not tell the amount of oil used any nigher than I have told. I did not measure it. I know very nigh what we now use, we use about a gallon per day; some days we do not have much to do and other days considerable. The present machines require more oil than the Woodworth; they are speeded up higher.

Never made an estimate of the cost of planing a thousand feet by the Woodworth machine. (If required to make an estimate of the cost per thousand of planing, what period of time should you want for the estimate?) I should want a year certain, and I think a longer time would come nearer than that would. The establishment was a jobbing one in part; we did what jobs we could get to do; and we kept some lumber on hand which we did when we did not have other work. Tallman & Bucklin were in the hard pine business, and the eastern, too. A good many small jobs are without profit to the establishment, having to change for them. We have planed one board both sides, as one of our small jobs.

Cross-examination.—We run before the fire three planers and one moulding-machine; that was all the machines in operation there. In another building was a clapboard machine. We had another machine there which we used occasionally a few weeks. We didn't use the five all the time. The oil for the other machinery and the machines was drawn out of the large can; all the men employed drew their oil out of that can. In our department when we wanted oil we drew it, and they said we used about a gallon per day, in the planing business besides what was used in the other business. I don't know whether there was any accuracy about the amount used in any specific department. There were three buildings in which Mr. Tallman's men were employed. I should think the engine now used by us is of greater power than is required for our machines. It is the same engine which was formerly used.

James Cornell, recalled. There was some lumber planed for Mr. Smith of the merino factory while I was at Mr. Dean's. It was the last job we did while I was there. I staid there one week longer than I intended to, in order to finish it.

Adjourned to Nov. 24th, 7 P.M.

Nov. 24th, 7 P.M.

Edward Stanhope, Jr., sworn. I have been in Mr. Dean's employ since the 7th or 8th of last January, chiefly in the capacity of clerk. My place of business is the works; I am about there all the time, or not all the time, for I am out about collecting some. It is my duty to charge the lumber that is planed, to make the entries. The labor I have to take, Saturday night, from the overseer's books in order to settle with the help. I assist in settling. Mr. Dean is generally present with me. He pays the money, I making up the accounts with the men. I never was in a planing establishment before. I know no other way to ascertain the profits of a planing establishment than to take the amount received for planing and deducting the expenses. I should require to take a period of two years in order to get at a reliable result, one that would satisfy myself. I should think Mr. Dean's establishment was conducted as

prudently, judiciously, and economically as such establishments in general; should think the number of men employed there was not greater than is required for the business. The men are hired by the day, and when they are not at work, and are away from the mill their wages stop; but when they are there their wages go on though not at work. I mean that their wages go on, if they are not discharged; not that their wages go on, if they happen in. It is the practice when we have no work or the work is slack to dock off some of the help. When at noon, we have no work for the afternoon, we tell some of the men not to come in in the afternoon. I mean the laborers, not those who tend the machines. When the machines are idle, and the other laborers discharged, the machine tenders are not idle, but busy about their machines, grinding, &c. Mr. Dean has used the lots he hires to stack lumber on. They are neighboring lots close at hand, two of them are with the mill, on the south side of the main building. The engine house separates them. There is another on the other side of Orange Street, and one in Dorrance Street. They have been occupied with lumber. One on Dorrance Street is hired for $175; one on Orange Street for $300, and the one (or the two), with the mill, on which the engine stands, for $300. Mr. Dean insures himself; I know of no policy. I have seen none since I have been there. I asked him if he was insured, he said he insured himself. He keeps a night watch; a man stays there all night.

I should think there was a gallon of oil used per day in the planing establishment, in planing and for the engine. I aided Mr. Dean in making the statements prepared by order of Court. Three-quarters of my pay and three-quarters of Mr. Dean's time went into the estimate. I reckoned Mr. Dean's time at $15 per week, $2 50 per day. Mr. Dean was engaged in the carpentering business until the 1st of April, winding up the jobs he had on hand. Mr. Dean has been around the building in and out about his business, about all the time that would be considered all the time; when he was away he was engaged in his business. It is necessary in that business that a man should be about the streets and away from his building sometimes.

Cross-Examination.—I was not at all acquainted with the planing business previous to going into Mr. Dean's employ. I think it would require time, some length of time, to come accurately at the cost of planing in an establishment in operation and going on. Mr. Dean has different men employed in other business than planing. There are five in the box shop, including the teamster; there is a man and a boy in the clapboard room. I think there are eight men and a boy in the sash and door room, that is as well as I can remember at present. There is carried on in the building the box and the sash and door-making, and the clapboard machine, saws, and a morticing-machine are used in these different branches of business. These

men are pretty steadily employed in the sash and door shop, not so steadily in the box shop. As a general thing, they are always on hand ready for jobs. I should think we required for the box making about 12,000 feet of lumber per week. I cannot tell how much is required for the sash and doors, I never figured it up. It would be hard to tell; a part of it is box boards. The accounts of labor are all kept alike. The men's names are entered; we know where the men belong by their names. The lumber used by Mr. Dean in his box business is handled by the same set of men who handle the lumber planed for others until after the lumber is planed; then the box hands handle it. The handling of the lumber comes along just as it is required, that for Mr. Dean and for other people, that which is required first is done first. The expenses of handling Mr. Dean's lumber are charged with those of other people. I do not keep a separate account of handling Mr. Dean's lumber. Mr. Dean's lumber comes in the same as everybody's else. The teaming is charged in that statement. The same answer would apply to the teaming. Mr. Dean's lumber comes in the same as every one's else. The cost of oil has been different. As far as my knowledge extends, from four shillings to $1 40 per gallon. I can't tell of which quality the most is required. I don't use it myself. My opinion of the quantity used in the lower part of the mill is formed from what has been bought. I can't say at present of which the most has been bought. The oil used up stairs is taken from the same large can as that used below generally. The overseers generally take the oil, I believe; I can't say certainly. I only judge from the fact that I have seen the overseers come for their oil. I have seen the men in the planing-room draw oil, and the engineer draws for himself. Some sawing is done below stairs at the planing-mill for the public. The time occupied by a man in sawing is not taken account of by itself. It would be so small, it wouldn't be worth while. We charge the sawing as an item against the parties for whom it is done. Sometimes we keep three machine men, sometimes two on hand. I cannot give the portion of the time when we have two and when we have three, because I am not in the planing-mill all the time. Mr. Dean places his lumber, which he has not immediate use for, or has not room for, on the lots he hires, or on the sidewalk. There have been, perhaps, ten bushels of coal at a time on the lots which he keeps for storing lumber, since I have been there. It is chiefly on the sidewalk, or what I consider the sidewalk. Mr. Dean has kept five horses. They are employed in drawing lumber and boxes—four of them in that way, and the other sometimes in that way. The greater part of the time only one is employed in drawing boxes. I have no books with me in which I kept the accounts.

Direct Examination resumed.—The amount of lumber planed for Mr. Dean's box business was taken into the statement, made per order of the Court, and the prices carried out, as for other persons.

I knew no difference between his and other persons. I can't tell or give any idea of the amount of sawing done in the planing-mill since I have been there. The charges for sawing have been from six cents to one dollar and over, according to the best of my recollection. The rent was put in that statement at $2000 per annum, distinct from the lots. In the account given of labor, labor in the planing-mill and for sticking lumber alone is included. The labor of the box-men, and of the sash and door-men, is not included.

Adjourned to Nov. 25, 7 P.M.

Nov. 25, 12 M. Notified of an indefinite postponement.

Dec. 27th, 1851, 7 P.M.

William Tallman sworn. Have been engaged in the planing business in Providence for twenty years or more. I believe we were the first to use Woodworth's machines here. We purchased the right for Rhode Island. I mean by "we" the firm of Tallman & Bucklin, since dissolved. We used the Woodworth machine until it was destroyed by fire a year ago last September. We purchased the original right for 14 years, and then the extension for 7 years. Dean commenced to use the machine soon after our purchase of the extension, he purchased of us. We considered he had the same right to use that we had. I think Mr. Dean was limited in his right to use to three machines; I won't be positive whether it was two or three. We did job-planing for customers and planed for ourselves. I should think it would take a period of one or two years in order to get at the average cost of planing a thousand feet in the city of Providence. At the present rates of planing one might be satisfied with the experiment for a single year. It is necessary to be ready at all times to do work, or you will not have any custom, your customers will desert you. Some days you won't have much, if any work to do, and other days you will have a great deal to do. It is not practicable here to shut up a planing establishment until sufficient work accumulates, and then run it through, and then shut up again until more has accumulated. We are frequently obliged to do small jobs at a loss in order to accommodate customers. This is owing to changing the machines, for instance if we are planing and jointing, and a man should come and want a small job tongued and grooved, we should have to alter the machine, which would consume a longer time than the pay for the job would compensate us for. At the prices of planing for the last two years, the job-planing business has not been profitable as far as my experience and observation goes. I can't recollect exactly when the prices for planing were reduced to their present rates. I should think some four years or more. I can't tell exactly by whom the cutting under on the old prices was begun. I had customers come some three or four years ago, and say they could get their work done at such a price at Mr. Mason's, and at such a price at Mr. Kenyon's, and if we could not do it at those

prices they must carry the work there. When prices were first cut down we did not pay much attention to it, we were engaged in other business, building, &c., and were not dependent on job business. When our business was reduced, and we were obliged to depend in part on planing for others, we felt it very severely, and found we could not make both ends meet by it. It has become necessary of late years to have land to place lumber upon, which we receive from customers, to stick it up, &c., this has arisen from the competition. We have had in former years five Woodworth machines, sometimes all running all the time, but generally three running all the time. In those times when we were doing so much, we used about a gallon of oil per day about the works. A barrel of oil would generally last about a month, sometimes only twenty-five days. I should think Mr. Dean's establishment was well arranged, constructed, and located, unless I except its arrangement for light, otherwise I should think it was a very good location. I should think Mr. Dean was diligent, industrious, and ordinarily skilful; that he attends to his business as well as other men as far as I know.

Cross-Examination.—I think we received from Mr. Dean $1400 or $1800, I am not sure which. I think Kenyon's mill was in operation in the city at the same time. I think Mr. Kenyon paid about the same as Mr. Dean. I think Mr. Mason had a mill in operation at the same time. We had five machines ready for work, and the most of the time in operation. The five included the clapboard and the moulding-machines. Mr. Mason did not buy of us. We were the exclusive owners of the right. I cannot tell whether the prices of planing have varied for the last two years. I think there has not been any established fixed price. I think each one has planed for what he could get. We have sometimes kept an account of the planing business, separate from other business, for a few weeks, to see what was the cost, but before our troubles we were engaged in other business, building, &c., and did not depend on our planing. We merely considered it auxiliary to our other business, but then we always accommodated customers when they came. In the statement or estimate I charged the rent of the premises, and then the labor, actually expended, then the materials purchased or used, as files, oil, &c. There was no horse-keeping in those days, boards were then brought to us and carried away, and then we took the amount of work done in those periods, and set off one against the other. In the days when we made those calulations we were having seven dollars per thousand for planing, and found it paid pretty well. For the time being, then we considered that mode to be an accurate mode of getting at the profit of planing for that time, though not for the year through; that gave us what we made for planing a certain lot. At that time we let some power, we have always let power. We were carrying on other business in which machinery was used, at that time. The other business we carried on with machinery, was

carried on in another building. In the building where the planing-machines were, was a saw-mill, and the oil I have spoken of was used in that building only; but for the saw-mill as well as for the planing-machines. We are not now using the Woodworth planing-machines. We think our present building is pretty well calculated for the planing business. I think the superficial feet we use for planing are not more than one-quarter more than Mr. Dean's building. Our building cost some $5000. If I was putting up a mill to suit myself I should put up such an one as we have put up. We seemed to have an old engine which could be easily repaired, we had land which we could not use for any other purpose, and we found a partner who would furnish means, and thus we could pay the interest of what we owed in part, and this is the reason why we went into the business and built the new mill. I think the business is not worth following. I don't know the value of the land occupied by the building. One reason of our going on was that we expected to purchase a right of Mr. Mason, and we thought we had a prospect of purchasing of him the right for the State, and we then believed we could fix the prices, and live by the business if we should purchase said right. All we wanted was to get Mr. Mason out of the way. We cannot work the upper and under surfaces of a board at the same time with the Norcross machine, nor the surface and the edge at the same time. I consider the Norcross machine will do twice the surfacing of the Woodworth machine.

Edward Luther, recalled. When I was running the mill with Mr. Sprague, we were running, at the same time, a clapboard machine. We run it by the thousand for Mr. Mason, or he paid us three dollars a thousand for all we planed. I don't know as I could tell what proportion of the sum our business netted, arose from the clapboard machine; I should think, however, not a great way from two hundred dollars per year. When we first began there, we used about four gallons of oil per week, and we reduced the quantity down to a gallon and a half. The first week we used five gallons, and we very soon reduced the quantity. Mr. Mason found oil for the clapboard machines for the first year or the biggest part of the first year. We reduced the quantity of oil used by looking to the oiling personally. We mistrusted that the oil was wasted, and looked to it more closely.

½ past 9 P.M., adjourned to meet at 7 P.M., on Monday evening, December 29th.

Albert G. Sprague, recalled, for the plaintiff. I have estimated the cost of building a planing-mill, of getting one up. I was once employed to build a mill. I built one. I did not, however, build it for my estimates. I built it more costly. It was not necessary to build it so costly, as it was built for planing business alone. Mr. Kenyon made some contracts for the work on the mill after I planned

it. It was the Union Planing Company's mill in this city. If it had been built for planing purposes only, I should have built it of one story only, of wood, and of cheap material. I should have put an engine in of about eleven-inch cylinder, and three-foot stroke. Such an engine would drive, and was intended to drive, three planing-machines. The cost of the mill, as I proposed to build it, would, as near as I can recollect, cost about $4000. A mill, to run three planing-machines, would now cost about the same. The cost of machinery, good plain machines, is included; but not the right to run them. When I was building that mill over there, we did not think the claim for the right to run the machines was good for anything. I should think from 300 to 400 dollars would be about a fair price for ground-rent for a lot, for such a mill. I think $400 would be a pretty high rate for rent for the land, from the prices they get for land. I don't know as I know of any lots that have been let for that sum. The Union Company's lot was hired for $300 a year. It was about 70 feet by 150 feet. There was an understanding with Mr. Kenyon that we should use some of the other land near by, if we wanted it. I don't know as I now know of any lots suitable for planing-mills which I know what they could be hired for. It is not in my line of business. The lease to the Union Company was for 10 years, with a privilege of 10 more; the rent for the second period to be estimated on an appraisal. If Mr. Dean's mill was to be let, I should think, it could be managed with the engine, which is in it, to advantage. I could not tell, how much could have been planed there before the Woodworth machines were removed; I should think though, they could have planed 200,000 feet a week as the work generally runs. The engine was suitable for running three machines. In operating the same number of machines, in that mill, which I now operate, I should think it would cost about the same it cost me; it ought not to cost any more. 200,000 feet would be a very large week's work. My machines will turn out fifteen hundred feet each per hour. I operate two machines for planing plank and boards, and one for planing clapboards. One machine for tonguing and grooving will turn out about half the quantity per hour which the machines for planing plank and boards will turn out. I should think, in the planing business the cheaper the mill was got up the better it would be for the owner.

The statement, given in by the witness, was here stated to be the expenses as near as he could come at them, and also the charges.

Cross-Examination.—I don't think, it is any advantage to a planing-mill to let power. I found I lost money letting power at Kenyon's. There is an advantage in having only a single story building in getting skylights to throw light on the machinery. There are one or two mills in the City now of only one story. Tallman's is only of one story. Tallman does send power to another building. Tallman's mill was built since Dean's. Turner's is of one story. When I was at that mill, he did not let power.

I have charged the profits of the planing-machines in my statement at $250.

The whole establishment belongs to Mr. Mason, and I hire the whole, paying him rent by planing a certain amount of boards per day. I have no risk from fire or otherwise. I furnish Mr. Mason with power valued at $500 sure. This power, with the planing I furnish him, is the rent I pay.

The above testimony was taken by me in the cause Nathan Mason et al. *v.* Wm. B. Dean.

(Signed) JOSEPH S. PITMAN,
Master in said Cause.

Order of Board of Aldermen.

In Board of Aldermen, met by adjournment, Monday, April 13th, 1846, at 7½ o'clock, P.M.

The petition of Stephen C. Kinyon and Franklin Richmond, requesting that the restrictions in regard to the steam-boiler they contemplate erecting may be removed, was taken up. The Mayor having reported that he had required Messrs. Kinyon & Richmond to use the following precautions in erecting the steam-boiler, for which permission was given by this Board on the 30th of March, last:

1st. The fuel to be anthracite coal exclusively, or as nearly so as may be practicable;

2d. The boiler to be in a fire-proof room, if the building be used for a planing-machine or works;

3d. The steam to be condensed or exhausted into the chimney.

And Messrs. Kinyon & Richmond having requested that this Board do so far modify said restrictions that they may be permitted to burn such fuel as they may choose, it was

Voted, That the Board will not modify said restrictions; but that they be made conditions of the permission given to the said Kinyon & Richmond to erect said boiler.

The petition of Wm. B. Dean for permission to erect and operate a steam-boiler on Dorrance Street, together with the remonstrance to said petition, were taken up.

It was voted, That said petitioner have permission to erect and operate said boiler, under the same restrictions as are imposed on Messrs. Kinyon & Richmond.

CITY CLERK'S OFFICE, PROVIDENCE, January 24, 1852.

I hereby certify that the foregoing is a true copy of record in this office, in Book No. 2, page 282, of the Record of the Board of Aldermen, and I further certify that said restrictions have not since been modified.

(Signed) ALBERT PABODIE,
City Clerk.

Dean's Statement of Lumber.

Statement of lumber planed at Wm. B. Dean's Planing Works, from May 22, 1850, to January 8, 1851.

445373 ft.	planed,	one side,	@	$2 50	per m.,	$1113 43
317281	"	both sides,	@	4 00	"	1269 12
388939	"	and matched or jointed,	@	4 00	"	1555 75
373858	"	and matched or jointed,	@	5 00	"	1869 29
22326	"	b. s., and matched or jointed,	@	6 00	"	133 95
						$5941 54

Expenses incurred in planing the above:

Oil,	$225 00	
Fuel,	337 50	
Rent,	1250 00	
Rent of lots, to store lumber on,	375 00	
Labor,	2665 00	
Carting,	1199 76	
		$6052 26

(Signed) WILLIAM B. DEAN.

Nov. 18, 1851.

Sworn to before me,

(Signed) JOSEPH S. PITMAN,
Master.

Statement of lumber planed at the Planing Works of William B. Dean, from January 8th to April 8th, 1851.

195846 ft.	planed one side,		@	$2½	per m.,	$489 61
287908	"	both sides,	@	4	"	1151 63
141484	"	one side, and matched or jointed,	@	4	"	565 93
92280	"	one side, and matched or jointed, narrow,	@	5	"	461 40
22095	"	both sides, and matched or jointed,	@	6	"	132 57
						$2801 14

Expenses to be deducted from the above:

Oil,	$90 00
Fuel,	131 35
Rent,	500 00

Rent of land, ...	$125 00	
Labor, ...	1048 81	
Carting, ...	. 641 35	
Repairs, ...	. 50 00	
		$2586 51
		$214 63

(Signed) WILLIAM B. DEAN.

Rhode Island District, *sc.*

CLERK'S OFFICE, CIRCUIT COURT,
AT PROVIDENCE, April 8th, 1851.

Then personally appeared the above-named William B. Dean, and made oath that the facts and statements above set forth were true and correct, according to the best of his knowledge and belief.

Before me,

(Signed) JOHN T. PITMAN,
Clerk.

Statement of lumber planed at the Planing Works of William B. Dean, from April 8th to August 29th, 1851.

254,125 ft., planed one side,	@	$2	50	pr. m.,	635 31
417,549 " both sides,	@	4	00	"	1670 19
195,506 " 1 side, & matched or jointed,	@	4	00	"	782 02
181,450 " 1 " "	@	5	00	"	907 25
18,338 " 2 " "	@	6	00	"	110 02
					$4104 79

Expenses incurred to come out of the above:

Oil, ...	125 00	
Fuel, ...	175 00	
Rent, ...	791 68	
Ground-rent of lots, to store lumber, .	300 00	
Labor, ...	1648 00	
Carting, ...	896 25	
Repairs, ...	60 00	
		3995 93
		$108 86

Made by William B. Dean.

Rhode Island District, *sc.*

CLERK'S OFFICE, CIRCUIT COURT,
AT PROVIDENCE, October 3d, 1851.

Then personally appeared the above-named William B. Dean, and

made oath that the facts and statements above set forth, were true and correct, according to the best of his knowledge and belief.

Before me,

(Signed) JOHN T. PITMAN,
Clerk.

Statement presented under oath, by Albert G. Sprague, Dec. 27th, 1851. Before me,

(Signed) JOSEPH S. PITMAN,
Master.

Amount of planing done at Mason's Planing Mill, from 8th April to Dec. 27th, '51. 37 weeks, . .	$5,863 45
Amount of expenses, of all kinds, incurred in operating said mill, including rent, labor, repairs, oil, files, coal, iron, steel, horse-keeping, shoeing, leaving everything in as good condition as when received, material wear excepted, ...	1,725 35
	$4,138 10

Six weeks, in as many months' labor during that time, including manager's wages.

June. 1 week's labor, $41 76; horse-keeping, shoeing, &c., $2 50; steel, iron, and coal, 50 cts., . .	$44 76
July. 1 week's labor, $42 42; horse-keeping, shoeing, &c., $2 50; iron, steel, coal, &c., 50 cts., . .	44 42
Aug. 1 week's labor, $42 84; horse-keeping, shoeing, &c., $2 50; iron, steel, coal, &c., . . .	45 84
Sept. 1 week's labor, $42 42; horse-keeping, shoeing, &c., $2 50; iron, steel, coal, &c., 50 cts., . .	45 42
Oct. 1 week's labor, $43 10; horse-keeping, shoeing, &c., $2 50; iron, steel, coal, &c., 50 cts., . .	47 10
Nov. 1 week's labor, $42 42; horse-keeping, shoeing, &c., $2 50; iron, steel, coal, &c., 50 cts., . .	45 42

In the above statement, there is nothing put down for oil and files; these are more than paid for by the sale of the edgings, from boards and planks cut off, to reduce the boards and planks to a width, and which, by custom, belong to the mill.

I have been my own manager, bookkeeper, and collector; and have put down all the expenses incurred by me, in conducting business at the mill.

In the statement of work and expenses, since 8th April, I have charged the cost of doing more than $100 00 more work, owing to my inability to obtain the number planed by the clapboard machine, when the account was made up.

Cost of a Planing Mill.

Ground-rent of a mill lot,		$400 per yr.
Building, consisting of posts set in ground, with plate and joists closed with matched boards and covered with shingle roof 50 ft. by 80 ft.,		600 00
Engine, 11¾ in. by 3 ft. stroke, size of Dean's, with boiler complete,		1000 00
Shafting, hangers, belting, getting in order,		650 00
1 Tonguing and grooving machine,	$550	
1 Double surface,	500	
1 Single,	175	
		1225
		$3525 00
A mill of this cost, will deliver over two hundred thousand feet of lumber per week, at an expense not exceeding		$50 00
As thus: ground-rent per week,	$7 69	
Int. on cost of mill,	7 69	
Engineer and fireman,	6 00	
1 man to run machine, and look after machinery,	12 00	
2 men to carry, and pile, and saw,	10 00	
1 man to help, averaging 4 days in the week,	3 33	
Horse-keeping, shoeing, &c.,	2 50	
This one horse will do all the work.		
Oil, steel, coal, files,	50	
		49 71
The weekly expense for planing 60,000 ft. of lumber, would be about		46 00
While, if the week's work was reduced to 30,000 ft., the expenses would be less than		30 00

5000 feet of planing, as jobs run, per day, will furnish fuel enough to keep everything in motion, ready for work; while more work will furnish more fuel, and consequently more power.

In addition, the amount received from sales of sawdust and plank edgings, will amount to over $1 50 per week.

Complainants' Objections.

Circuit Court of the U. S., Rhode Island District, *ss.*

NATHAN MASON et al. } In Equity.
v.
WILLIAM B. DEAN. }

Before Joseph S. Pitman, Esq., Commissioner.

The complainants in said cause take objection to the general report

of Joseph S. Pitman, Esq., to whom said case was referred, as follows, to wit:

That the said master, in his said draft report, and in ascertaining the profits which he was directed by his commission to ascertain, has refused to adopt the rule, "Ascertain what would be the profit derived from using these machines, in the City of Providence, under the most judicious management, and require that profit at the hands of the defendants," which rule he ought to have adopted.

He allows to the defendant the sum of six hundred forty-three $\frac{85}{100}$ dollars for fuel, which he ought not to have allowed.

In which particulars they object to the draft of said report, and submit that the same ought to be altered accordingly.

By their solicitors,

AMES & PAYNE.

Feb. 24, 1852.

Presented to

JOSEPH S. PITMAN,
Master in said Cause.

Defendant's Objections.

Circuit Court of the United States, Rhode-Island District, *sc.*

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

Before Joseph S. Pitman, Esq., Master.

The defendant in said cause takes objection to the draft of the general report of Joseph S. Pitman, Esq., to whom said case was referred, as follows, to wit:

That the said master, in his said draft report, finds and reports as the amount due from the defendant to the complainants, the sum of twenty-three hundred and thirty-nine $\frac{10}{100}$ dollars ($2339 10), and not the sum of one hundred and fifty-three $\frac{84}{100}$ dollars ($153 84) only, the amount which, according to law and equity, and the evidence before him, he should have found and reported to be the sum due, that is to say,

He allows to said defendant for ground-rent, for stacking lumber, only the sum of $509 74, instead of $800, the amount he should allow.

He allows to said defendant for cost of labor only $3968 59, instead of $5361 81, the amount he should allow.

He allows to said defendant for cost of oil only the sum of $107 15, instead of $440, the amount he should allow.

He allows to said defendant for repairs nothing, instead of allowing him therefor the sum of $70, the amount he should allow.

He allows to said defendant for carting only $2737 36, instead of $2795 29, the amount he should allow.

In all which particulars, the said defendant objects to the draft of said report, and submits that the same ought to be entered accordingly.

By his solicitors,

THOMAS F. CARPENTER,
JOHN P. KNOWLES.

Feb. 24, 1852.

Presented to

JOSEPH S. PITMAN,
Master in said Cause.

Complainants' Exceptions.

Circuit Court of the United States, Rhode Island District, *sc.*
Nov. Term, A. D. 1851.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

The said complainants having taken objection to the draft of the master's report in said case, which by said master have been overruled, now takes to the honorable Court exceptions to the master's report, as returned and filed by him, in the following particulars, to wit:

First. For that the master, in and by his said report, and in ascertaining the profits which he was directed by his commission to ascertain, has refused to adopt the rule, "Ascertain what would be the profit derived from using these machines, in the City of Providence, under the most judicious and economical management, and require that profit at the hands of the defendant," which rule he ought to have adopted.

Second. For that said master, in and by his report, allows the defendant the sum of six hundred and forty-three $\frac{85}{100}$ dollars for fuel, which he ought not to have allowed.

In which particulars the said defendant excepts to the report of said master, and submits to the honorable Court that the same ought to be altered and amended accordingly.

By their solicitors,

(Signed) AMES & PAYNE.

Additional exception filed by leave of respondent.

Third. For that the said master, and by his said report, hath allowed to the respondent the sum of two thousand five hundred and forty-one $\frac{61}{100}$ dollars for rent ($2541 61), which is a much larger sum than he ought to have allowed.

(Signed) AMES & PAYNE,
Solicitors for Complainants.
J. P. KNOWLES,
Solicitor for Defendant.

Defendant's Exceptions.

Rhode Island District, Circuit Court of U. S. Nov. Term, 1852.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

The said defendant, having taken objections to the draft of the master's report, in said cause, which by said master have been overruled, now takes to the honorable Court exceptions to the master's report, as returned and filed by him, in the particulars following, to wit:

1st. For that the master in and by his said report, finds and reports the amount due from the defendant to the complainants, to be the sum of $2281 17, and not the sum of $153 84, only as by the law, and the evidence submitted to him he should find and report.

2d. For that the said master, in his said report, allows to said defendant, as the cost for land for stacking or piling lumber only the sum of $509 74, instead of $800; the amount he should allow.

3d. For that the said master, in his said report, allows to said defendant, for cost of labor, only $3968 59, instead of $5361 81, the amount he should allow.

4th. For that the said master allows to the defendant for cost of oil, only the sum of $107 15, instead of $440, the amount he should allow.

5th. For that the said master allows to the defendant for cost of repairs not anything, instead of the sum of $70, the amount he should allow.

In all which particulars, the said defendant excepts to the report of the said master, and submits to the honorable Court, that the same ought to be altered and amended accordingly.

By his solicitors,

(Signed) THOS. F. CARPENTER,
JOHN P. KNOWLES.

And the cause being further continued to the November Term, A. D. 1852, of said court, it is called for hearing upon the exceptions to the master's report, and was argued by counsel. Whereupon the following decree was ordered to be entered.

Decree.

Rhode Island District, Circuit Court, United States. November Term, A. D. 1852.

NATHAN MASON et al.
v.
WILLIAM B. DEAN.
} In the Cause in Equity.

This cause coming on to be heard upon exceptions taken by the complainants, and by the defendant to the report made in this cause by the master, to whom said cause was referred, pursuant to a decretal order made in this cause, on the 24th of July, 1851, which report was filed on the 6th of March, 1852, and the subject-matter of said exceptions having been argued by counsel, it is hereby ordered, adjudged, and decreed, that the first exception of the complainant be, and the same is overruled and disallowed; that in reference to the second exception of the complainant, that the said report be referred back to the said master for further inquiry and proof, as to the quantity and value of the coal, which was used in the planing mill of the defendant, during the time charged by the defendant, and whether any coal would have been necessary, if there had been no power used except for the planing-mill, and that upon this point the said Dean be particularly examined, and that his account in this respect be proved by vouchers if the same exist, and that the master hear what testimony may be properly offered by either party, in proof of, or objection to the subject-matter of this exception, without any reference to the said ordinance of the City of Providence; that in reference to the third exception of the complainants, that the master further inquire and that he examine the said defendant, and require from him a particular statement of the ground-rent on which his planing-mill stands, and the cost of the building or buildings thereon, and the planing-machines therein, and the amount and value of the business done in the said mill besides the planing, and the value of the power used by the defendant, or any other person by his permission in said building or adjacent thereto, besides that used for planing, and that he hear and examine what testimony may be properly produced by either party, in reference to the subject-matter of this exception.

That the first exception of the said defendant be and the same is hereby overruled, so far as it requires the said master to report the sum of $153 84, as due from the defendant, to the complainants, and as to the residue thereof, will be the subject of further inquiry as hereinafter mentioned.

That in reference to the subject-matter of the second exception of the defendant, it be referred to the said master for further inquiry and consideration, what was the annual value of the lot or lots, used for stacking lumber for planing by the defendant, and for what other purposes the same were used, and what was the annual value of such other use, and what proportion the other uses of said lot or lots bore in value, to the stacking of lumber thereon used for planing, and that the said defendant be particularly examined under oath

touching the matter of this exception, and that the said master hear and examine, whatever testimony may be properly produced by either party, in reference to this exception.

And in reference to the third, fourth, and fifth exceptions of the said defendant, that the same be referred to said master for further examination and inquiry as to the value of the labor mentioned in the third exception employed in planing exclusively or in connection with the planing and the other business of the said defendant connected with said planing mill, and that the said defendant render a particular account thereof to the said master, and be particularly examined in reference to the same; and that the said master hear and examine what other testimony either party may properly produce in reference to the same, and also in reference to the oil mentioned in the fourth exception; and what were the repairs for which the said defendant has charged the sum of $70, and that he produce a voucher for the same, and render a particular account of the same. And that the master further inquire, whether the expenses charged by the defendant were reasonable, and such as would be incurred by a prudent man in the management of the planing business; and whether the same were incurred by the said defendant.

And that the said master report, with all convenient speed, after said further inquiry, the amount of profits which the defendant by reasonable diligence might have derived from the use made by him of said patented machines, and the sale of the products thereof from the 22d day of May, 1850, to the 29th of August, 1851; and that all questions of costs, and interest, and all further directions be reserved until the coming in of said report.

Signed, this 12th day of June, A. D. 1852.

JOHN PITMAN,
District Judge U. S., for R. I. District.

Motion to Answer.

Rhode Island District, *sc.*, Circuit Court of United States.
June Term, 1853.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

Now, on the day of said term (pursuant to notice in open Court on the first day), the said defendant, inviting attention to the 32d rule of the Court, and to the affidavits herewith filed, prays leave to make answers to the bill in said cause.

Also, that the injunction against him may be removed or suspended, until the further order of the Court; and

That proceedings before the master in said cause, under the inter-

locutory decree of the day of June Term, 1851, and under any and all orders supplemental thereto, be stayed, until the further order of the Court.

(Signed) WILLIAM B. DEAN.

THOMAS F. CARPENTER,
JOHN P. KNOWLES,
Solicitors.

W. B. Dean's Affidavit.

Rhode Island District, *sc.*, Circuit Court of the United States.
June Term, 1853.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Suit in Equity.

I, William B. Dean, defendant in said cause, on oath declare and say:

I suffered a decree *pro confesso* to be taken against me in the case aforesaid, at the June Term, 1851, solely because advised by counsel, that the decision in this Court at the June Term, 1850, of the suit of the said complainants against William Tallman et al., was to all practical intents a decision of the case against me, and that that decision was in accordance with the adjudication by other judges in other circuits of identically the same question.

That I faithfully obeyed the order of the Court of November, 1850, directing me to keep an account of profits; and, after decree pro confesso against me, ceased to use the machines in said bill referred to, before the writ of injunction granted to the complainants, was served upon me: incurring expenses and losses in consequence of the complainants' suit against me, to the amount, at the least of twenty thousand dollars,—saying nothing of the claim for damages yet pending in the master's office.

That to all the calls and orders of the master, under his commission, I have, in good faith, yielded obedience; never seeking or wishing to delay, prolong, or postpone, the inquiry before him, but always holding myself in readiness to proceed in said inquiry on request of the complainants by day or by night.

That when a few months since I learned through my counsel and otherwise, that by a decision of the Supreme Court of the United States, at its January Term, 1853, a construction had been given to that certain act of Congress, upon which the complainants' case solely rests, which virtually overruled the decision of this Court in the case of Tallman et al., and similar decisions in other districts, I immediately gave notice to the complainants, that, as soon as might be, I should take the necessary steps (whatever they might be) to secure the benefit of said decision of the Supreme Court; and on the first day of this term, in open Court, gave notice of the present motion.

And finally, that I am advised by my counsel that under the said decision of the Supreme Court, I have a complete and perfect defence to the bill of complaint aforesaid, and am entitled to be relieved from the injunction issued against me in September, 1851, and from further attendance before the master in said case, and to recover, in this suit, at least my cost of defence.

(Signed) WILLIAM B. DEAN.

Rhode Island District, *sc.*

In Providence, this 11th day of July, A.D. 1853, then personally appeared William B. Dean, and made oath to the truth of the facts and statements contained in the foregoing affidavit by him subscribed.

Before me,

(Signed) T. A. JENCKES,
U. S. Commissioner.

Messrs. Knowles and Carpenter's Affidavit.

The undersigned, joint counsel of Wm. B. Dean, in the matter Nathan Mason et al. *v.* said Dean, pending in this Court, on oath declare and say, that the facts and statements contained in the aforewritten affidavit of William B. Dean are true, according to the best of our knowledge, information, and belief.

(Signed) JOHN P. KNOWLES,
THOS. F. CARPENTER.

Rhode Island District, *sc.*

Circuit Court, Nov. T., 7th day, 1853.

Sworn to by said John P. Knowles, according to the best of his knowledge and belief, before Court, and on the 17th day of the Term (April 29, '54), sworn to by Thos. F. Carpenter.

(Signed) JOHN T. PITMAN,
Clerk.

And the Court, after hearing the said motion to answer, denied the same, considering that under the 19th Rule of the Supreme Court in equity it had no power to grant the same, the decree having become absolute.

Master's Report.

United States of America, Rhode Island District, *sc.*

Circuit Court United States, Nov. Term, 1854.

NATHAN MASON et al.
v.
WILLIAM B. DEAN.

Pursuant to the decree of the 12th of June, 1852, sending back to

the undersigned this report, as master in said cause, for further examination and inquiry, the undersigned respectfully reports:

That he met the parties at several times, and received such additional testimony as they thought proper to present. That testimony consisted solely of the affidavits of Wm. B. Dean, the respondent, his answers to the interrogatories propounded by the complainants, with the vouchers and statements by him presented, and the testimony of some witnesses upon the questions of coal and oil used, or necessary to be used, all of which are herewith returned.

Upon this testimony, under the instructions of said decree, the master reports, that the respondent swears that the cost of fuel, from January 8, '51, to August 29, '51, was actually $306 35. For this period he produces vouchers for coal for $156 25, and swears in his affidavit that $123 33 was paid for wood, but produces no vouchers therefor. For the preceding period the cost of fuel was ascertained by the respondent, by average calculated from the period for which the account was kept, and sworn to have been $337 50. Upon all the evidence submitted to me, I am of opinion that no coal or fuel other than that furnished by the mill, would have been necessary, if there had been no power used except for the planing-mill. I therefore make no allowance to the respondent for fuel, amending my former report in this respect.

Upon the second point, that of ground-rent, on which the mill stands, respecting which further inquiry was ordered, I report that there was no testimony offered by the complainants to disprove the statements of the respondent.

Those statements under oath were, that the proper charge for ground-rent on which his planing-mill stands, should be $400, to which he claims should be added $100 for rent of the lot on which his engine-house stands. Of this $500 I have thought it reasonable, in this report, to charge $\frac{2}{3}$ of the rent to the two upper stories of the building, which would give the rent chargeable to the planing-mill alone but $166 66, although if those stories were not in existence the whole sum of $500 would be a just charge on the mill. The cost of the building or buildings on said land, together with the cost of the planing-machines, engine, shafting, and gearing, for the planing works merely, was between $18,000 and $19,000, as sworn to by the respondent. Taking $18,500 as the cost of those items, I have deemed that two per cent. was a proper rent for that cost, which, added to the allowance for ground-rent, gives $2,016 66 as the rent per annum for the planing-mill alone. The amount claimed by the respondent, in his original statements, for rent per annum is $1,999 37, and my former report was made allowing that amount, which I see no reason to change, and therefore again report that I deem the rent charged by the respondent to be proper and not excessive. The amount of the business done in the mill besides the planing was not shown. The value of the box making business in gross receipts was

shown to be $12,000. The sash and blind business occupied five or six hands; but no testimony respecting its value or amount was given. The value of the power used by the defendant in said building or adjacent thereto, besides that used for planing, was sworn by the respondent to have been $150, and that used by other persons, by his permission, therein or adjacent thereto, to have been $77 50. As these items seem to have been considered by the respondent in giving his affidavit and his answers to the interrogatories, and not to have entered into his estimates of the expense of the planing-mill, I think they should not affect the charge for rent. I took them into consideration in disallowing the respondent's charge for fuel.

I further report, that the annual value of the lot or lots used for stacking lumber for planing by the defendant was $625, I having already allowed one-third of the rent of the Duncan lot to the charge for the rent of the mill. The only other purpose for which that lot was used was for depositing coal for the use of the mill at times, and on about ½ of the Duncan lot. The annual value of that use is not given, and, I think, could not properly affect the subject-matter.

The amount allowed in my former report for stacking lumber was $509 74. Upon the evidence now presented to me, which is uncontradicted, I think it just and proper to allow the amount of $625 per annum, for rent of lots for stacking lumber, which will be for the time covered by this inquiry, $796 42.

I further report, that the value of the labor referred to in respondent's third exception, employed in planing exclusively, appears by paper entitled, "Labor from January 8th, 1851, to August 29th, 1851," filed in answer to complainants' 14th interrogatory, to have been $2739 59. This exceeds the amount charged in the statements filed in the clerk's office by the respondent. In his affidavit of July 19, 1852, the respondent states that the teamer's wages now stated at 200 $\frac{50}{100}$ dollars, was not charged in the labor account in the statement filed. Taking the present statement as correct, and adopting it as a basis for the value of labor before Jan. 8, 1851, it would give $2706 08 as the value of labor for that period. I report, as required by the decree, "the value of labor for the whole period" covered by the inquiry to have been $5445 67. There was no testimony presented to me going to show the value of any labor employed in the other business of the defendant, or in connection with the planing business. It was shown by the defendant that the account of labor by him presented, and above referred to, was for that employed in the planing business only. But under the decree, I see no reason for changing the allowance on this point made in my former report.

In reference to the oil and its value, used in the respondent's mill, I report that the respondent made oath before me, that the value of the oil actually used was $440, as charged in the statements. He presented no vouchers on this head. Taking the rest of his state-

ment in the affidavit, this cannot be correct. The period covered by the inquiry is 66 weeks and two days. His affidavit states that from seven to nine gallons a week were used, costing from $1 to $1 25 per gallon. At seven gallons per week, at $1 per gallon, the cost of oil would be over $460, and averaging his statement, say eight gallons per week, at $1 12½ per gallon, the cost would be $596. I see no reason to depart from the report before made, allowing half a gallon per day, at the cost of $1 04 per gallon, but it having been shown upon the present hearing, that the edgings were mostly burned at the defendant's mill, during the last year Francis worked there, and that the quantity sold was trifling, I throw out of the calculation the value of the edgings, and report the amount allowed for oil to be $206 96.

The amount charged for repairs in the statement filed was $110, which I disallowed in my former report. Upon the evidence now submitted to me, I allow for this item $70.

I further report, that the expenses charged by the defendant for rent and labor were incurred, that a portion of the expenses for rent of lots for stacking lumber and for fuel were incurred, and that the expenses charged by him for oil are not shown by vouchers to have been incurred, that those charged for repairs were incurred. I further report, that the expenses charged by the defendant for rent, most of those for rent of lots for stacking lumber, and a portion of those for repairs, are reasonable, and such as would have been incurred by a prudent man in that business; that the expenses charged by him for labor, fuel, and oil, are not reasonable, and would not have been so incurred.

I further report, that the receipts of the defendant were $12,847 47. That he is entitled to charge for carting, $2737 36. For rent, $2541 68. For lots for stacking lumber, $796 42. For labor, $3968 59. For repairs, $70. For oil, $206 96, making a total of $10,281 01, and that the sum of $2566 46 is the amount of profits which the defendant by reasonable diligence might have derived from the use made by him of such patented machines, and the sales of the products thereof, from the 22d day of May, 1850, to the 29th of August, 1851.

I further report, that on the 28th of April, 1853, defendant's counsel entered a protest against proceeding further in the examination before me, stating as his reason that the decision of the Supreme Court, in a recent case, had made a decision adverse to the decision under which the commission to me as master was issued, and that if the defendant could obtain a rehearing, he should, to have this whole proceeding set aside, and in that case this and all subsequent proceedings herein would be at the peril of the complainants.

On the 10th of August, 1854, Mr. Payne gave notice that he should present from the Clerk's Office, a copy of the affidavit of Mr. Dean, showing a loss of $20,000 from his having been stopped in

his business by the proceedings in this cause; said copy was never presented, and has not been considered in making up this report.

I return herewith the affidavit of Wm. B. Dean with the accompanying vouchers, and the testimony taken before me,

All which is respectfully submitted by me.

(Signed) JOSEPH S. PITMAN,
Master in said Cause.

On the 19th of December, 1854, defendant's counsel submitted to me objections to my report which were considered by me, and I see no reason for changing the foregoing report in the items objected to.

Respectfully submitted.

(Signed) JOSEPH S. PITMAN,
Master.

PROVIDENCE, Dec. 20, 1854.

Fees, $75.

Interrogatories to Wm. B. Dean.

Interrogatories to be proposed to William B. Dean by the complainants in the case, mason & Gould *v.* Wm. B. Dean, upon his examination before the master under the order of Court, referring the case to him for further evidence.

1. Please to state of whom you purchased coal from May 22d, 1850, to August 29, A.D. 1851; please to name all the persons of whom you purchased during that time; give the names, the dates of the several purchases, and the amount of each.

3. Did you or not from time to time pay your help by orders for coal?—and if so, please render a particular account of such orders, to whom given, and the amounts and dates of such orders?

4. Was the wood used for driving the planing machines; were any shavings sold or exchanged for other fuel, and if so, in what quantities? Please state the dates of the payments for wood, and when purchased.

5. When did you pay for the land upon which your mill stands, to whom, and how much?

6. Please give the items of the cost of your mill; the sums paid, the persons to whom paid, the times when paid, together with any and all vouchers for such payments in your possession, and within your control, or which can be obtained by you. In those statements please give the costs to May 22d, 1850, and then give the additional costs between that time and Aug. 29th, 1851.

7. Please give a detailed account of the "expenses incident to box making;" explain what you mean by these expenses; how they were incurred, and when; give amount of the same with vouchers.

8. Please state what business other than planing was done by you between May 22d, 1850, and Aug. 29th, 1851, and especially what business was done in your planing mill; to what amount, and at what expense; state particularly the number of boxes made by you, the

prices obtained for them, and the expense of making them; give the dimensions of your mill, and state what proportion of the same was used for the planing business, and what for any other business; and state what other business was then carried on, and to what extent; and state particularly the number of persons employed in such other business, and the amount of room occupied by them; and state what machines or machinery of all kinds was employed in such other business, and which, and how much of the same was driven by steam-power, and how was such power applied, and from whence derived?

9. Of how many stories does your building consist, and was more than one story used for planing?

10 What was the superficial area of the floor used for planing?

11. Was any portion of your mill or of the buildings adjoining thereto, and connected therewith occupied by any other persons as tenants under you?—if so, please state what portions, and give the names of the tenants; the amount of rent paid by them, how payable; state whether any power or heat was furnished to them or any of them, and if so, upon what terms?

12. Did you occupy any portion of the premises described by you as your mill as a drying room?—if so, what portion; from whence was the heat in said room derived; what profits or income did you derive from said room; from whom, and how?

13. You say the value of the power used by other persons was $77 50; please state the names of the persons, the amount used by each and paid by each?

14. For whom did you stack lumber?—state the names of the different persons, and the amount stacked for each, giving the amount of each lot of lumber so stacked; state what number of men were employed in stacking lumber; the time that they were employed and the amount paid for the same.

15. Have you no books or memoranda or vouchers by which you can ascertain the amount paid by you for labor, from May 22d, 1850, to Jan. 8th, 1851?—if so, please produce the same; if not, state why not; did you keep no books during said time?

16. Were the men named in the answer presented by you under the direction of the master all the men employed by you as regular hands; were they employed all the time; if not, how much of the time was each employed?—state also the names of your "extra hands," and the amounts paid to each, and produce vouchers for these payments.

17. Were any of these men employed in any other business than the planing business?—if so, which of them and how much of the time?—state whether any portion of their time was occupied in other business than that which had reference to the planing of lumber?

18. Was any sawing of lumber done for the public?—if so, how much, and by whom?—state specifically.

19. Were any edgings of boards sold, and to what amount; if not, what use was made of them?

20. Did you at any time keep any account of the labor employed in the planing business separate and distinct from the other business done in the establishment?—if so, please produce such account?

21. Please state the special employment of each of the men named in your answer, furnished under the directions of the master?

22. What proportion of the lumber planed by you was carted by you?

(Signed) AMES & PAYNE,
Pro Complainants.

The respondent Dean makes no formal objection to any of the aforesaid questions.

(Signed) J. P. KNOWLES,
For Respondent.

Examination of William B. Dean, August 10, 1852.

The said Dean being first duly sworn, thus replies to the following interrogatories:

1st. Please to state of whom you purchased coal, from May 22d, 1850, to August 29, A.D. 1851; please to name all the persons of whom you purchased during that time; give the names, the dates of the several purchases, and the amount of each.

Answer. Here are about all the vouchers I have. Vouchers Nos. 1, 2, 3 and 4. Nos. 1 and 3 were for coal delivered at the works, purchased at the times, and of the persons, and for the amounts set forth in the bills. Nos. 2 and 4 were for amounts paid for freight on the same lots. These are all the vouchers I can find. I frequently bought wood during the time specified, and paid the money for it. I kept no account of it except for the time when I was obliged to keep the account in order to enable me to render the account required. I bought my wood of farmers in almost all cases, and have no knowledge now of their names. I might have bought some of Randall and some of Tucker. I have bought a great deal of Tucker since. I took no bills at that time. I couldn't swear to having purchased any other coal than that above named, for the use of the mill. I kept no book account of the wood I purchased for the mill during that time. I kept the account on a sheet of paper. I don't know but the sheet is over at the mill. I cannot give the dates of the several purchases of wood. I can give no further account of the amount of the purchases than that first rendered in.

2d. Did you or not, from time to time, pay your help by orders for coal; and if so, please render a particular account for such orders, to whom given, and the amounts and dates of such orders?

Answer. I did. The voucher marked No. 5, is a particular account of about all such orders, the amounts, and dates, and to whom they were given. The first item of that bill is not for coal delivered

to my help. I do not know what items Nos. 9, 11, 17, 19, 20, 21 and 22 were for. No. 23 was for my house. The other items not specified were for coal delivered to my help. I don't know of any other orders. I have not looked for any other. I have bought coal at various times of almost all the dealers for my mill, but I cannot say whether it was within the period named, or not. I found that wood was best for me as my grates were too low down for coal, and therefore I burnt wood chiefly.

3d. Was the wood used for driving the planing machines; were any shavings sold or exchanged for other fuel?—and if so, in what quantities?—please state the dates of the payments for wood, and when purchased.

Answer. The wood was used for that purpose. James A. Potter, I believe, exchanged one or two small jogs of wood there for shavings, and Earl Carpenter also. I don't know the exact time when they left wood there in that way, whether during the specified period, or before, or since. I cannot state whether or not shavings were sold or exchanged for other fuel during that period.

4th. When did you pay for the land upon which your mill stands, to whom, and how much?

Answer. I paid for it, I think, in 1845, to Charles Dyer, the amount was $2800.

5th. Please give the items of the cost of your mill, the sums paid, the persons to whom paid, the times when paid, together with any and all such vouchers for such payments in your possession, and within your control, or which can be obtained by you. In those statements, please give the costs up to May 22, 1850, and then give the additional costs between that time and August 29, 1851.

Answer. I should not be able to give any such statement. I know that the buildings cost me a great deal more than I expected when I commenced it. I have no voucher of any account of the cost of building my present mill. The mason-work was principally done by Job Seckell. I paid him as he called for his money. I took no receipts for the money, as I paid him. He made out bills; I think I have them. My old mill was not burned completely to the ground. The ruins were repaired. I think a great many of the vouchers for building the original mill were burned up with that mill; I know they were. Most of my papers were burned, except my books and papers which were in the safe. My books did not contain a transcript of those bills. The original mill was brick. In building the new mill we used the old brick as far as we could. We bought some new brick for the mill, but I could not tell how much. I was engaged in other business; building in other parts of the city; and I cannot tell whether bricks, purchased at any particular time, went to the mill or elsewhere. I do not now think of any one else, besides Mr. Seckell, who did any mason-work on the mill. I did the wood-work. I have no account of that. I knew what the original mill cost, within

a few hundred dollars. It was between 25 and 30 thousand dollars, as near as I can recollect. It is impossible to get at the cost of the present mill. The original mill was burned on the 29th of December, I think, 1848. I think the rebuilding commenced in the following March. The steam-engine and boiler, for the original mill, was to cost $3000; it overrun three or four hundred dollars. It was purchased of Thurston & Green. The same engine and boilers are there now. They were repaired after the fire; I do not recollect the cost of repairing. I think it likely I have the voucher. Albert Fuller, now in Boston, got out the gearing for the mill originally; I put it up. I don't recollect what his bill was; it was about $1000. It was only partly destroyed in the fire. Stephen J. Levalley repaired it, that is, he turned it; my men assisted him in putting it up. A part of it was done at the Phœnix Iron Foundry; Levalley did the greatest part of it; I think I have Levalley's bill; I ought to have it; I don't know whether I have it or not; I don't recollect its amount. A part of the belting, after the fire, I bought of Owen Mason, Peleg H. Barnes, and Waterman Irons. I have bought considerable of a person who keeps in Harkness & Stead's building, on Pine Street. I have also bought of Brown & Barker and Arnold & Knight; I don't think of any one else. I generally paid cash. I can't tell anything about the cost of the belting necessary for putting the mill into operation immediately after the fire. The cost of the three planing machines originally, if I recollect aright, was $3000 or in the neighborhood of that. It cost something to get them started and regulated after that; I should think about $50. They were not totally destroyed at the fire. They were repaired by the help that I hired; I don't know the cost. When the original mill was built the foundation was laid by Ezra Luther of this city. He worked by the day. The rough stone was furnished by Almoran Harris. The granite was furnished by Horace Barnes, of Smithfield. Barber & Staigg furnished some. I think they got theirs from South Kingstown. Their bills are all destroyed, as I believe, by the fire; I do not know their amounts. Between May 22, 1850, and August 29, 1851, there were no additional costs for the mill, machines, and engine, except for repairs.

6th. Please give a detailed account of the "expenses incident to box making;" explain what you mean by these expenses; how they were incurred and when; give amount of the same with vouchers.

Answer. I could not tell about the expenses. I know we make so many boxes, but the size of them, and what the cost is, I could not tell anything about. The expenses incident to box making are for nails, lumber, and labor, and teaming. We always deliver the boxes. The expression "expenses incident to box making," as quoted, should have been "expenses incident to the box-making shop." By that I mean expenses of that portion of the mill above the planing-mill, the cost of building and fitting with machines, shafting, gearing, &c. I

don't know the expense of building the two upper stories of the building. There is one straight piece of shafting going way through, or enough to make one string way through. There is also a counter-shaft which runs the saws, and an upright shaft. I don't know what the shafting cost. We put it up, that is, my help put it up. I cannot state what the gearing cost, for that portion of the building. I kept no account after the first account, and I cannot tell what the first account showed. I cannot say what the machines cost, we built a part and bought a part. I bought about six or seven hundred dollars worth of the machines of Billings Barstow, I cannot tell when. They were some he took for debt, and I took them from him. I think it must have been in 1849. I don't know whether I have the voucher of that purchase, or not. They were purchases for the sash making shop. In speaking of those expenses in the statement rendered on the 19th of July, 1852, I intended to state or to show that in making up my statement first rendered, I had not put in the expenses I incurred in fitting up the box-making shop, but only those expenses properly belonging to the planing business, on the first floor. I bought no machines since the original ones for the box shop, and I don't know what the original ones cost. We made the frames and bought the iron-work. I think Franklin and Seth Cook made part of the iron-work, and part was made at the Phœnix Iron Foundry, and part was made at Frederick Fuller's shop.

7th. Please state what business other than planing was done by you, between May 22d, 1850, and August 29, 1851; and especially what business was done in your planing-mill, to what amount, and at what expense; state particularly the number of boxes made by you, the prices obtained for them, and the expense of making them; give the dimensions of your mill, and state what proportion of the same was used for the planing business, and what for any other business; and state what other business was there carried on, and to what extent; and state particularly the number of persons employed in such other business, and the amount of room occupied by them, and state what machines or machinery of all kinds was employed in such other business; and which, and how much of the same was driven by steam-power, and how was such power applied, and from whence derived?

Answer. I was in the house-carpentering business from May 22d, 1850, to April 1st, 1851. I was also making boxes, and sashes, and blinds. From April 1st, to August 29th, 1851, I was only engaged in planing and in making boxes, sash, and blinds. I have already filed an account of the business done in the planing-mill, its amount and expense. I cannot tell how many boxes I have made, at present. I will endeavor to obtain an account from my books. An account has been kept of that number. I receive seventy-four cents apiece. I don't know the expense of making them; the sizes vary greatly. The mill is about 130 feet long, and about 40 feet wide. The engine

house is about 30 feet square I should think. The building is of three stories. The first floor is used for the planing business, the second floor is used for the box business, and the third floor for sash and blind business. I think the box business is worth in gross receipts about $12,000 per annum. I do not know what are the gross receipts of the sash and blind business. I guess there are five persons steadily employed in the box work, and when we are in a hurry we take hands from the other parts of the shop. There are six persons employed in the sash and blind business, between five and six, perhaps it would not average more than five. The two kinds of business are kept distinct, each upon its own floor. Sometimes hands are brought from the sash and blind room to the box room. The sash shop is the same size as the first floor of the building. The box shop is only about two-thirds as large, or three-quarters. The balance of that story was occupied by a turner. The machines in the box shop are a splitting saw, and a cutting-off saw, and a grooving-machine. In the sash shop there are, a splitting saw, a saw for squaring off, two sticking machines, a power morticing-machine, and Daniels' planing-machine. All these were driven by steam-power, which was applied by means of shafts moved by the engine, which move the planing-machines.

8th. Was more than one story of your building used for planing?

Answer. No, only the first floor.

9th. What was the superficial area of the floor used for planing?

Answer. That stated above.

10th. Was any portion of your mill or of the buildings adjoining thereto, and connected therewith, occupied by any other persons as tenants under you?—if so, please state what portions, and give the names of the tenants, the amount of rent paid by them, how payable; state whether any power or heat was furnished to them, or any of them, and if so, upon what terms.

Answer. Yes; I rendered in an account of the rent received by me. The small room on the second story of my building was rented by me to Mr. Capron, a turner. I can find out the amount paid, and will hand it in. He was to pay in cash, quarterly. I was to furnish him power; he did not need much; he was manufacturing cocoa-nut dippers. He did not use a half horse-power. I rented him the room with the half horse-power for so much; I reckoned the value of the power rented him to be about $20 per annum. I also rented a little room next the engine-room to Isaac Taylor. He succeeded a man who was a cabinet-maker. I cannot state the periods of their renting it, without referring to the books. I do not recollect the amount of rent they were to pay. They were to pay in cash, quarterly; power was furnished to them; they used about half-horse-power, and the rate was at $20 per annum. There was a man who ground files who occupied a part of my building at one time; but I cannot state without reference whether it was within the speci-

fied time or not. No heat was furnished to any of these persons. No persons in the adjoining buildings were tenants under me.

11th. Did you occupy any portion of the premises described by you as your mill as a drying-room; if so, what portion; from whence was the heat in said room derived; what profits or income did you derive from said room; from whom, and how?

Answer. We had a room over the boilers where we put in stuff occasionally. I should think it was 15 feet wide by 30 long, and 9 or 10 feet between joints; it did not answer well, because the steam seemed to work up, and prevented the wood from drying well. The heat came from the boilers. The exhaust-pipe passed through the lower part of the room right over the boilers. My income from the room was very little. It was only once in a while we put lumber in there. It was only put there to accommodate customers who had planing done there. If we reckoned our time, it would not be worth anything. I cannot say what the profit from it was. I do not that I could by reference to the books. We calculated to get a dollar and a half a thousand for putting it in, sticking up, and delivering. It was only occasionally that we put any in. We have put it in for Philip H. Durfee, and a few for Albert Daily, and for Davis, a boat-builder.

12th. You say the value of the power used by other persons was $77 50; state the names of the persons, the amount used by each, and paid by each.

Answer. See the answer in addition to the 10th interrogatory on folio 10.

13th. For whom did you stack lumber?—state the names of the different persons, and the amounts stacked for each, giving the amount of each lot of lumber so stacked; state what number of men were employed in stacking lumber, the time that they were employed, and the amount paid for the same.

Answer. I stacked for Billings Brastow, Alexander Duncan, Thomas Harkness, Burrows & Burgess, James A. Potter. Those were the principal ones; they would keep a stock on hand; Potter was the heaviest. We kept stock for Potter and Brastow all the time. We would also stack small lots for different persons; for Durfee, Philip H. I don't remember any others. I don't know how much I stacked for each. I cannot give the amount of each lot of lumber stacked. When we had a lot of lumber we hired men to do it. We generally hired three or four hands when we had a lot of 100,000 feet or so to stack. We did not employ any hands steadily for that business. The time they were employed would depend on the quantity of lumber we had to stick. We paid these men a dollar a day; we never took receipts from them. We kept no record of the time these men worked.

14th. Have you no books, or memoranda, or vouchers, by which you can ascertain the amount paid by you for labor from May 22d,

1850, to Jan. 8, 1851?—if so, please produce the same; if not, state why not; did you keep no books during said time?

Answer. I have books which will show the amount paid for labor in that time, except the labor for stacking, and for the occasional men hired in the mill for a day or two. I will produce them.

15th. Were the men named in the answer presented by you, under the direction of the master, all the men employed by you as regular hands, were they employed all the time?—if not, how much of the time was each employed?—state also the names of your extra hands, and the amounts paid to each, and produce vouchers for these payments.

Answer. They were all the regular hands. They were employed all the time, unless they were sick or so, and then others were employed in their stead, if they were off half a day or so. I kept no record of the names of the extra hands. If I wanted them, I could step out and get them any time. They were Irish, and I always called them all Patrick. I don't know any of their names. For the period during which we were obliged to keep the time, the amount paid to them all was about $60. I cannot state the amount paid to each; I never took vouchers from them, and can produce none.

16th. Were any of these men employed in any other business than the planing business?—if so, which of them, and how much of the time?—state whether any portion of their time was occupied in other business than that which had reference to the planing of lumber.

Answer. Donnelly was the teamer. He worked in the mill when we had teaming. The time he worked in the mill, would not average more than a day and a half in the week. In foul weather he worked in the mill. Wood was the watchman. I considered him in the concern. All the rest were employed in the planing business alone. No portion of their time was occupied in other business, than that which had reference to the planing of lumber.

17th. Was any sawing of lumber done for the public?—if so, how much, and by whom?—state specifically.

Answer. We occasionally sawed a little lot. The most of our sawing is done to prepare the lumber for our machines. When we are matching stuff, we generally saw it; but the matter goes into the planing bill, without any special charge of the sawing. I think there might have beeen $30 worth done between the 22d of May, 1850, and August 29, 1851; the amount received for those jobs would be from 25 cents to one dollar. That is about all they would amount to; they would sometimes bring us in only a ninepence. We did not think of charging regular customers anything for a trifling job. The sawing was done by the hands, generally by John Griffin. They would all, occasionally, do it; but he was the best hand; he had the best judgment about sawing. I did considerable of it myself. I cannot state for whom it was done.

18th. Were any edgings of boards sold, and to what amount?—if not, what use was made of them?

Answer. We used to sell a load of edgings once in a while, but mostly to the hands. Perhaps in that period we might have sold a dozen loads. I don't think we sold quite that amount. We generally got a dollar a load, sometimes less, depending on the size of the load. We burned the rest of the edgings. Some of the edgings would be taken away by the owners of the lumber, who would use them for furring or for board sticks.

19th. Did you at any time keep any account of the labor employed in the planing business separate and distinct from the other business done in the establishment?—if so, please produce such account.

Answer. We kept an account of all the labor we employed, and, as we knew where each man worked, we knew what labor was employed in the planing business. The account was kept of all the hands together.

20th. Please state the special employment of each of the men named in your answer furnished under the direction of the master.

Answer. Davenport was a regular planer. He tended a planing-machine. He was a kind of a boss. He run two of them occasionally. Joseph Francis run the double machine, as we used to call it. George Bowen run the planing-machine, and when there was not planing enough, he helped prepare, as did the rest. Hugh Burns was the fireman. Michael Martin was a laborer round the mill. Martin Murray was a laborer. John Griffin did the sawing, as the principal part of his work; when we had no sawing, he was a helper. Wood was a watchman, and cleared up the mill nights. My time was devoted there, that is, two-thirds of it, and two-thirds of E. Stanhope's time. O'Donnelly was teamer; and, when not teaming, he was helping in the mill.

21st. What proportion of the lumber, planed by you, was carted by you?

Answer. We carted seven-eighths of the lumber we planed. If we did not cart it, we had to pay for the carting; and if the dealers' teams carted it, we had to allow for it. We had rather do the carting than not, as we had to keep a team for the business. In some cases, the planing would not come to more than a dollar, and the teaming would cost us half that. Where I planed small lots, it was more to my advantage to make the customary deduction for teaming, than to do the teaming, if the lumber had to be carried a long distance, or brought from a long distance, as was often the case.

On the 18th of August, Mr. Dean appeared, and made further answer.

To the 1st interrogatory. I cannot find the sheet of paper showing account of wood bought.

To the 7th interrogatory. I have examined my books, and find it impossible to tell how many boxes I made during the period specified. I thought there was an account kept of the number, but there was not.

To the 10th interrogatory. The paper, entitled "List of Power Let in the Building," contains the names of all the persons to whom power was let in the period specified, and the amounts which they severally paid.

To the 14th interrogatory. The paper, entitled "Labor from Jan. 8 to Aug. 29, 1851," is an abstract from my books of the amounts paid, and time each person worked for me in my planing-mill during the period therein specified. The entries were made from week to week as the men were paid in the regular course of my business.

In answer to the questions proposed by the master, Mr. Dean deposed as follows:

Coal would have been requisite, if there had been no other business carried on by the engine but planing.

I should estimate the proper ground-rent of the mill to be $400, excluding the ground on which the engine-house stands.

I should estimate the value of the power used by me in my building, for other purposes than planing, to be $150 per annum.

I let power to be used in an adjoining building. I let it for only a part of the time covered by this inquiry. I don't recollect what I received for it. I let it to Tillinghast Almy and William Jackson. I guess Jackson was the first tenant, and afterwards Almy let out some. I don't recollect the dates I let to Jackson. I can give the times and the amounts.

I cannot state what would be the expense of putting up a one-story building, suitable for planing purposes, of the size of my mill.

I bought oil of various persons. I bought some of Mr. Dunham, of Boston; his was the best I had. I have no vouchers for the oil I used. I bought a number of barrels of oil at a time of Mr. Dunham, and I bought of others, sometimes by the gallon.

Sworn to before me, by Wm. B. Dean, on the 10th and 18th of August, 1852.

(Signed) JOSEPH S. PITMAN,
Master.

List of power let in the building, from the 22d May, 1850, up to Aug. 29, '51.

Wood & Capron, 9 months 12 days, @ $20 per year, ending Aug. 29, '51,	$16 00
John Newhouse, 6 months, @ $40,	20 00
H. B. Knowles, 4 months, @ $40,	13 33
H. Whiteman, 1 year, @ $20, ending Aug. 29th, '51,	20 00
Isaac Taylor, 5 months, @ $20, " " "	8 17
	$77 50

(Signed) WILLIAM B. DEAN.

Labor from January 8 to August 29, 1851.

W. Davenport, 61½ days @ 10*s.* and 112 days @ 12*s.*,					$326 50
J. Francis, 134½ days, @ 9*s.*,				$201 75	
Extra work by Francis,				20 82	
					222 57
J. E. Potter,	51¾ days,	@ 7*s.*,			64 69
G. Bowen,	168¾ "	"			210 94
G. Richardson,	57 "	@ 6*s.*,			57 00
M. Martin,	187¼ "	"			187 25
J. Griffin,	75½ "	"			75 50
T. O'Donnell,	200½ "	"			200 50
H. Burns,	182 "	"			182 00
A. Woods,	204 "	@ 7*s.*,			238 00
E. Stanhope, ⅔ of 200	"	@ 8*s.*,			188 89
W. B. Dean, ⅔ of 204	"	@ 15*s.*,			340 00
M. Murray,	160¼ "	@ 6*s.*,			160 25
J. Garland,	4 "	"			4 00
Wm. Dolan,	11¾ "	"			11 75
J. Beach,	16¾ "	"			16 75
G. Pool,	16½ "	"			16 50
E. Murphy,	104½ "	"			104 50
D. M'Faggin,	20½ "	"			20 50
J. Morrin,	16¼ "	"			16 25
J. Mullin,	6 "	"			6 00
Miles Collins,	3¼ "	"			3 25
J. Connor,	9¼ "	"			9 25
T. Lenihan,	38¾ "	"			38 75
Mathew Coslin,	15½ "	"			15 50
B. Donehue,	5 "	"			5 00
Michael Carl,	11 "	"			11 00
L. Clifford,	6½ "	"			6 50

(Signed) WILLIAM B. DEAN.

Vouchers for Coal.

Mr. William B. Dean,

Bought of Jackson, Clark & Co.

1849.				
1. May 2,	S. J. Levally, accepted order,			$28 00
1850.				
2. Feb. 8,	1 ton coal,	Jas. Griffith,		7 00
3. " 20,	1 " "	Mr. Cornell,		6 00
4. Oct. 12,	1½ " "	John Gellan,		9 75
5. Nov. 30,	2 " "	Jos. Francis,		13 00
6. Dec. 13,	1½ " "	Harrington,		11 25
7. " 17,	1½ " "	Carder,		10 87
8. " 28,	½ " "	Mr. Braner,		3 75

1851.						
9. Jan.	10, 5490 lbs. coal,		3^4		$8 92	
10. "	20, ½ ton coal,		Weeden,		3 25	
11. "	20, 5570 lbs. coal,		3^2		9 75	
12. Feb.	5, 1000	"	Stanoph,		3 75	
13. "	21, 1000	"	Weeden,		3 25	
14. Mar.	12, 1000	"	Stanoph,		3 50	
15. April	21, 1000	"	"		3 05	
16. May	6, 2000	"	Francis,		6 00	
17. "	9, 1000	"			3 50	
18. June	14, 500	"	Stanhope,		1 81	
						136 40
19. Sept.	3, 4020	"	5^4		10 55	
20. "	6, 5460	"	"		14 34	
21. "	11, 4640	"	4		9 28	
22. "	24, 4670	"	"		9 34	
23. Oct.	27, 2000	"	House,		6 75	
						186 66
	Cr. By 1 grist mill,					125 00
	Due,					61 66
	Cr. By planing, &c.,					4 74
						$56 92
Dec. 18.	4100 lbs. coal,		5^4			10 76
						$67 68

No. 1.

Wm. B. Dean
To Aqc. Coal Co.

1851. DR.

Jany. 23. For broken coal del'd at Pearce's wharf, per Bunker, Capt. Southwick, 18 ton, $3¼, $58 50

1851. Supra CR.

	By amt. pd. freight,	$8 10	
May 14.	" Cash on acc.,	2 25	
"	" Note at thirty days,	48 15	
			$58 50

Rec'd payment,
AQUIDNECK COAL CO.,
S. DURFEE,
Agent.

No. 2.

Mr. William B. Dean

To Barge Bunker. DR.

For freight of 18 tons R. I. coal from Portsmouth to Providence, R. I., $8 10

PROVIDENCE, Jany. 25th, 1851.

Rec'd payment,

JAMES SOUTHWICK.

No. 4.

PROVIDENCE, March 12, '51.

Mr. William B. Dean

To W. A. Potter, DR.

To freight on 28¾ tons of coal from Portsmouth to Providence, R. I., at 40 cts. per ton, $11 50

Rec'd payment,

W. A. POTTER.

No. 3.

PROVIDENCE, May 14, 1851.

William B. Dean

To Aquidneck Coal Co.,

1851. DR.

April 10. For 1 boat load stove size coal, del'd boat Bunker, Capt. Baker, at Portsmouth, 28¾ ton, @ $3, $86 25

33 days' interest on $134 40, 74

$86 99

Rec'd payment by note at 30 days,

AQD. COAL CO.,

S. DURFEE,

Agent.

Vouchers on Lots for Stacking Lumber.

PROVIDENCE, April the 1st, A.D. 1850.

William B. Dean

To Nathan Gorton, DR.

To one year's rent of yard for piling lumber, $2 50

To one year's rent of yard for piling lumber, to date, April 1st, A.D. 1851, 2 50

To one year's rent of yard for piling lumber, to date, April 1st, A.D. 1852, 2 50

$7 50

Mr. William B. Dean
To R. L. Gardner, Agent.

1851.		Dr.
July 31.	For three months' rent of yard, from April 15th to July 15th, 1851,	$43 75

Vouchers for Repairs.

W. B. Dean, Esq.,
To Samuel B. Schenck.

1850.		Dr.
May 29.	For 2 setts 22 in. knives sent May 4,	$15 00
	" " 14 " "	10 00
	" 1 20 in. pulley and clutch,	5 00
	" 1 9 in. gear plate, with gear stud complete,	9 50
	" 1 14 in. knive sent May 23,	1 67
	" 1 sett extra gear, "	15 00
June 27.	" 1 pr. S. C. Heads, "	15 00
	" 1 sett S. C. Pinions,	4 50
July 8.	" Gear Pinion,	75
10.	" 2 setts 8½ in. knives,	7 50
Aug. 10.	" 1 4 role 14 in. J frame, P. T. & G. machine, extra,	700 00
14.	" 1 wide S. C. Head,	7 50
Sept. 4.	" Work, mending extra gear,	4 50
	" 2 H. Screws,	1 00
20.	" 1 22 in. cylinder,	35 00
	" 1 pr. Comp. f. o. Boxes,	15 00
	" 1 screw to raise cutter, fitted,	1 50
Nov. 14.	" 4 large extra gear,	5 00
	" 1 14 in. mal cutter and pullies,	47 50
	" 1 pr. S. C. pullies and plate,	8 00
21.	" 2 setts 14½ in. knives,	10 00
Dec. 31.	" 1 cap for cutter,	1 50
	" 1 cross bar, drilled, &c.,	3 00
1851.		
Jany. 22.	" Repairing extra gear,	75
Feby. 24.	" 1 cutter box cover,	25
April 2.	" 2 20 in. gear bonnets and screws,	4 00
	" 2 Ex. " " "	3 00
15.	" 2 setts 22 in. knives, Feby. 7,	15 00
	" 1 Gear, "	1 50
	" 1 14 in. comp. cutter, March 15,	80 00
	" 1 sett (4), Heavy Lever, "	12 00
	" 1 Ex. gear, " 11,	15 00
	" 1 sett 14 in. knives,	5 00
11.	" Feed shaft, pullies, and gear,	30 00

	For Clutch connecting rod and shipper, complete,	12 50
	" 1 Com. for drum shaft, . . .	6 00
April 26.	" 2 setts 22 in. knives, . . .	15 00

Wm. B. Dean

To S. B. Schenck.

1851.		Dr.
May 6.	2 setts 22 in. knives, ...	$15 00
	2 " 14 "	9 75
		$24 75

Rec'd Payment,
SAML. B. SCHENCK.

Affidavit of Wm. B. Dean.

United States Circuit Court.

In re MASON & GOULD
v.
WILLIAM B. DEAN.

The said Dean, complying with the order of J. S. Pitman, Esq., Master, of the 15th July, 1852, on oath declares and says:

First. As to fuel or coal.

The amount charged in his statements from January 8, '51, to Aug. 29, '51, is the actual amount of cost of fuel during the period included. A memorandum was kept, from which the statement was made up; coal and wood were used. For the coal he produces vouchers; for the wood he can produce no vouchers, as he purchased as he needed, a load at a time, of market men, taking no bill. $123 33 is the amount paid for wood.

The amount charged for fuel in statement from May 22, '50, to Jan. 8, '51, is ascertained by average of cost from Jan. 8 to Aug. 29, during which an account was kept. The fuel during that period (May to Jan.) was principally wood.

The boiler of the establishment is a cylinder, and not a flue boiler; requiring more fuel, as is well known. With a flue boiler drawing well, comparatively little fuel would be required. But even then some fuel would be required besides shavings, were nothing but planing done at the establishment. With his cylinder boiler other fuel than the shavings was required, though nothing but planing had been done. The custom work together with the defendant's own work would not afford sufficient fuel at all times.

Second. As to rent.

a. The land upon which the mill stands is owned by Dean. Cost $3000, in .

The engine house stands upon land leased of Duncan for $300 per year; the engine house occupying about one-third of the lot leased.

The cost of the buildings, the planing machines, the engine, shafting and gearing for the planing works merely, was between 18,000 and 19,000 (the expenses incident to the box making shop, &c., &c., not included).

b. Of the "amount and value of the business done in said mill besides the planing," this defendant is unable here to say anything which he can conceive to be of any importance to any party.

Upon this point therefore he will await questions by the master or the complainants.

c. The value of the power used by the defendant Dean from May 22, '50, to Aug. 29, '51 (charged at the rate of $40 pr. year for one horse) was $150.

The value of power used by other persons within said period, charged at same rate, was $77 50, the real amount as per books.

Third. As to lots for stacking lumber.

The amount paid for lots to stack lumber was as in the statements $800, ⅔ the rent of the lot adjoining the mill (upon which the engine house stands) being included.

As to the value of the lots (*i. e.* the proper rent), this defendant can only say he could not obtain them at a lower rent, and believes no other person could obtain them at so low a rent.

The lots hired for this purpose were never used for any other purpose, excepting that at times about ⅓th of the Duncan lot was used for depositing coal for daily use.

One lot of A. Duncan at $300 pr. an., as above.
One lot of N. Gorton at $250 "
One lot of R. S. Gardner at $175 "

Fourth. As to the value of the labor employed in planing exclusively.

The amount charged for labor from Jan. 8, '51, to Aug. 29, '51 ($2696 81), is the actual cost, as paid for labor in the planing establishment, and in that alone. The persons employed and the wages paid were as set forth in the memo. A, annexed; that is, the regular hands.

The amount charged for labor from May '50 to January '51 is ascertained by averaging cost of labor from Jan. 8 to Aug. '51, during which account was kept. In no other mode could the defendant arrive at any definite result, and this he believes to be a fair mode.

The charge of ⅔ds of defendant's own time, and ⅔ds of Stanhope's, is but a fair charge; as the planing business in fact occupied more than that proportion of their time.

A.

Labor.

W. Davenport, ...	$1 67 pr. day.
J. Francis, ...	1 50 "
G. Bowen, ...	1 25 "

Hugh Burns,	$1 00	pr. day.
M. Martin,	1 00	"
Martin Murray,	1 00	"
John Griffin,	1 00	"
G. Richardson,	1 00	"
A. Woods,	1 17	"
⅔ of W. B. Dean,	2 50	"
⅓ of E. Stanhope,	1 42	"
T. O'Donnell,	1 00	"

Extra hands at sundry times for 3 mths., $63 00.

N. B.—T. O'Donnell was teamer; but his time is not charged in the labor account in the statement filed.

Fifth. As to oil.

The amount of oil charged in the statements filed was actually used. The quantity used was from 7 to 9 gallons per week, costing by the bbl. $1 per gallon, when bought by the bbl., and sometimes costing $1 25. But a trifling quantity was used out of the planing establishment proper.

Sixth. As to repairs.

The defendant here produces vouchers for repairs to the amount of many hundreds of dollars beyond the amount set forth in his statement.

(Signed) WILLIAM B. DEAN.

PROVIDENCE, July 19th, 1852.

Sworn to before me.

(Signed) JOSEPH S. PITMAN,
Master in Chancery.

Joseph S. Francis sworn, April 28, 1853.

I was employed in Mr. Dean's mill from the time it started until about three months before the machine stopped in 1851 (machine stopped Aug. 29th, 1851); run the machine first part of the time; the last two years run machine and engine too. During the last year I was there, Mr. Dean used some coal; I could not tell what quantity. Coal came several times in considerable quantity; some Rhode Island coal; latter not all used when I left the mill. Can give no definite estimate of the quantity. The R. I. coal was used while I was there; do not know how much. I cannot tell about how much wood was used; there was some wood used. There were several loads come; not very large loads (this was during the last year). Mr. Carpenter had some shavings several times, and I think he bought about 1½ cord of wood in exchange; not less than that; some pine and some chestnut. I don't know whether any were sold or not. Mr. Potter had some shavings; don't know on what terms. If the engine had driven no other than the planing-machines, I think the shavings would have been sufficient for fuel for the engine. I think it would have just about carried it through on an average; sometimes we were short.

It would be rather hard for me to state just the quantity of oil used on planing-mill. 30 gallons once went 24 days, when we first started. Dean bought the oil; then the lower part only in operation; a quart would not quite go a day. No power was let at that time; I mean by the lower part, planing-machines and engine.

Sometimes we sold strips for $1 00 per load. I was a long time before I could get them the last year; they were then burned up.

X by Mr. Knowles.

I think if there was no other machines than planing, the shavings would be sufficient, if we had plenty of work all the time, as much as we could drive to. We didn't always have work enough. Sometimes we were slack of work. One winter, either the last or last but one, we were very slack. We were then shoring up the mill. At first there was one machine, and then another, and, after a time, another; some considerable time between. I think about the time when we had 2 machines, sometime along there, that we found a quart a day not quite enough. I recollect it, because I used to go after it some. It was when I first began to run a planing-machine. I recollect Mr. Dean getting tan, I think 50 load, from Olneyville. I believe I run the engine; I won't be positive. (This tan was not used during the time covered by this inquiry.)

Direct R.

I suppose it likely; new machines would use a little more oil than old machines.

By the Master. About a pint of oil a day on an engine of 15 horse power. Run two blowers; about a gill on each blower.

William Davenport sworn.

Mr. Dean used coal; not a great deal. Might have been two or three loads this fine dust coal brought there. Mr. Dean used some wood; but we swapped shavings for wood with Mr. Carpenter. The machines would have supplied so many shavings, if run all the time, that we could not have burnt them.

I don't know as I could tell the quantity of lumber stacked.

We sold some strips; what wasn't sold were burnt. I made a charge of all were sold on my pencil-book. I had two or three loads charged to me. I cannot tell the amount sold; we used to sell some shavings by the barrel; not amount to much.

X.

Nothing further is necessary if sufficient shavings are to be had; need no coal or wood to enable us to burn shavings. In carrying on business in Providence, if no other business but planing is carried on, always have shavings enough. I make this remark to cover the time when we were using the W. machines. I tended the engine a spell. I had charge of the mill during that period; had oversight of his firemen. I don't know of any wood that came other than furnished by Potter & Carpenter in exchange for shavings; sometimes Potter brought coal.

Albert G. Sprague sworn.

In a planing establishment the machines will furnish ample shavings for the purpose of driving the machines, plenty.

Strips were sold by me at my establishment; all I made, except what I used at home. Sometimes I would sell by the pile; one pile at $15, one at $6, and loads at $1, and others one or two at a time.

The foregoing statements were made before me, under oath, by the said Francis Davenport and Sprague, on the 28th of April, 1853.

(Signed) JOSEPH S. PITMAN,
Master.

Defendant's objections to draft of Report.

NATHAN MASON et al.
v.
WM. B. DEAN. } In Equity.

Before J. S. Pitman, Esq., Master.

To the Master's draft of his report, herewith returned, the defendant objects: for that

1st. The said Master makes no allowance to the defendant for cost of fuel within the period named in the decree.

2d. The said Master allows for oil only the sum of $206 96.

3d. The said Master finds that the defendant made profits, or "might by reasonable diligence" have made profits to the amount of $2566 46, within the period named, and does not find that he did, and, with all reasonable diligence, could not have made any profits by the business in question.

And he prays, that said draft may be accordingly corrected.

And further, from abundant caution, he gives notice to the plaintiff, Mason, that having recently learned that the said Mason is now solely interested in the matter in controversy (the said Gould having conveyed to him all his pretended interest in said patent), he shall make such use of the fact before the Court as lawfully he may; and also shall, probably without further delay, pray leave of the Court to file a Bill of Review, or a Bill in the nature of a Bill of Review, with a view to the dismission ultimately of the Plaintiff's Bill, and the removal of the decree, as yet standing against him, the defendant.

By his solicitor,

(Signed) JOHN P. KNOWLES.

Motion to dismiss Bill.

Rhode Island District, *sc.*, Circuit Court of U. S., November Term, 1854.

NATHAN MASON and CHARLES D. GOULD
v.
WILLIAM B. DEAN. } In Equity.

And now, on this day of the term, the said defendant comes and

says, that since the last continuance of this cause, it has come to his knowledge, that on the 9th day of April, 1852, the said Charles D. Gould, by a conveyance of that date, in due form of law, and duly recorded, did, for the sum, as recited in said conveyance, of $3500, transfer, assign, and set over to the said Nathan Mason, "all the rights vested in him" (the said Gould), under the Woodworth Planing Machine Patent, in said bill of complaint mentioned, "in the City of Providence, to have, hold, and enjoy or convey the same," as the said Mason should think proper; and that, also, since the last continuance, it has come to his knowledge, that on the 10th day of April, 1852, the said Nathan Mason, by his conveyance of that date, in due form of law and duly recorded, for the consideration, as stated, of fourteen thousand dollars, divested himself of all right in said patent, as respects the territory of the City of Providence, and granted, assigned, and conveyed to Francis Baker and Elisha Smith the exclusive use to said patent during the whole of the extended term thereof, within the City of Providence, including the period within and during which defendant is in said bill charged with infringement of the said patent. And herewith are filed certified copies of the said two conveyances (marked A and B), to which reference is made for greater certainty as to their terms and effect respectively.

And hereupon he prays that the bill aforesaid be dismissed, and that his reasonable costs be awarded him.

By his solicitors,

(Signed) JOHN P. KNOWLES,
THOS. A. JENCKES.

A.

The United States Patent Office, to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office.

In testimony whereof, I, S. T. Shugert, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and fifty-five, and of the Independence of the United States the seventy-ninth.

[L. S.]

(Signed) S. T. SHUGERT.

Whereas, Nathan Mason, of Providence, R. I., did, on the twenty-second day of May, 1850, transfer, assign, and set over to Charles D. Gould, of Albany, N. Y., one equal undivided half of the rights and privileges then vested in him under the Woodworth planing machine patent, dated Dec. 27th, 1828, in certain parts of the State of Rhode Island, including the City of Providence, excepting as to certain machines then used by him.

Now, know all men by these presents, that the said Charles D. Gould, in consideration of the sum of three thousand five hundred dollars to him in hand paid by the said Mason, does hereby transfer, assign, and set over to him, the said Mason, all the rights vested in him under said patent, in the City of Providence aforesaid. To have, hold, and enjoy or convey the same as he may think proper.

In witness whereof, I have hereunto set my hand and seal this ninth day of April, eighteen hundred and fifty-two.

(Signed) CHARLES D. GOULD. [SEAL.]

Received and recorded, May 7, 1852.

B.

The United States Patent Office.

To all persons to whom these presents shall come, greeting:

This is to certify, that the annexed is a true copy from the records of this office.

In testimony whereof, I, S. T. Shugert, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and fifty-five, and of the Independence of the United States the seventy-ninth.

(Signed) S. T. SHUGERT.

This agreement, made the tenth day of April, 1852, between Nathan Mason of the one part, and Francis Baker and Elisha Smith of the other, and all of the City of Providence, Rhode Island.

Witnesseth, that whereas William Woodworth, deceased, did, in his lifetime, obtain letters patent from the United States, bearing date the 27th day of December, 1828, for a certain machine for planing, tonguing, and grooving plank, &c.

And whereas, William W. Woodworth, administrator of the said William Woodworth, the said patentee, obtained an extension of the said letters patent for the term of seven years, from and after the expiration thereof, to wit, from the 27th day of December, 1842, pursuant to law.

And whereas, by an Act of Congress, passed on the 26th day of February, 1845, the said letters patent were further extended for the term of seven years, from and after the 27th day of December, 1849, to the said William W. Woodworth, administrator as aforesaid.

And whereas, the said letters patent have, since the passage of said act, been surrendered for a defective specification, and new letters patent have been issued, which bear date on the 8th of July, 1845, and were issued to the said administrator.

And whereas, the said William W. Woodworth, administrator as aforesaid, has conveyed unto James G. Wilson aforesaid, by deed of assignment, dated on the 14th day of March, 1845, and duly recorded,

and by further deed, dated on the 9th day of July, 1845, and also recorded, all the right, title, and interest of the said William W. Woodworth, administrator as aforesaid, of, in, and to the said letters patent, and the franchises thereby granted and secured for the said term of seven years, created and extended by the said Act of Congress, that is to say, for the term of seven years from and after the 27th day of December, 1849.

And whereas, the said Wilson, by deed dated the day of did convey to R. & J. Borden, of Fall River, Massachusetts, the exclusive right and privilege of making and using the said machine in certain parts of the States of Massachusetts and Rhode Island, including the City of Providence.

And whereas, the said R. and J. Borden, by deed dated the 29th day of June, 1849, did convey to Nathan Mason, of Providence aforesaid, the exclusive right and privilege of making and using the said machine, in said City of Providence, as will more fully appear by reference to the deeds or the records thereof, on the books of the Patent Office at Washington.

Now, know all men, that I, Nathan Mason, in consideration of the sum of fourteen thousand dollars in hand paid, and of the covenants hereinafter made, on the part of the said Francis Baker and Elisha Smith, and expressly upon the condition of a faithful performance thereof by them, the said Baker and Smith, doth hereby grant and give in writing under seal, to them and their executors, administrators, and assigns, his full consent, permission, and license to construct and use, and vend to others to construct and use, during the said last-mentioned extended term of seven years of the said renewed patent, ten (10) planing, tonguing, and grooving-machines, upon the principles, plan, and description of the said renewed patent and amended specification, but to be used in the City of Providence, Rhode Island, and not elsewhere.

And said Nathan Mason agrees with the said Francis Baker and Elisha Smith aforesaid, that no other than such ten machines thus licensed to them shall, in any manner or on any pretence, be licensed, authorized by said Nathan Mason, or by the said patentee, or other person deriving lawful title under them, or either of them, be constructed, maintained, used or kept for use, in the said City of Providence, under or by virtue of said letters patent.

It is the effect of this covenant, that the said Francis Baker and Elisha Smith shall enjoy, during said extended term, an exclusive use to the said patent within the said City of Providence; limited, however, to the respective number of ten machines as before provided, and to be used in the city aforesaid. And the said Francis Baker and Elisha Smith, and their executors, administrators, and assigns, covenant with the said Nathan Mason, that they will not, during the continuance of this license, maintain, or keep, a depot for the sale of the manufactured products of such machines beyond

the limits of their proper territory hereby assigned, or sell to others the products of such machine to be carried out of the said territory, to be resold as an article of merchandise.

But this license, and the covenants of the said Mason herein contained, and each and every part thereof, are, and is, upon the express conditions following, to wit: First, The right of the said Baker & Smith is restricted and limited to the construction, vending, maintaining, using, and having on hand for use at any one time, during the said extended term, to ten of the said machines, and no more; and each of the said machines is to be constructed, vended, maintained, and kept for use, within the said City of Providence, and not elsewhere, and all right and privilege to operate the said machine, and each of them, shall cease whenever it shall, for any cause or any pretence, be removed out of said City of Providence.

Secondly. The said assigns shall not directly, or indirectly, personally, or by agents, establish or maintain any depot for the sale of lumber dressed by said machine elsewhere than in the aforesaid, nor shall sell such manufactured products to be resold as merchandise elsewhere than in the

Thirdly. That, whereas the said Francis Baker and Elisha Smith have this day executed and delivered to the said Nathan Mason five promissory notes, of even date herewith, for the sum of ten thousand dollars, with interest from date, payable yearly on the sum unpaid, said notes forming part of the consideration of this conveyance as aforesaid, payable as follows: One note payable at ninety days from date for one thousand dollars; one note for twenty-two hundred and fifty dollars, payable with interest one year from date; one note for twenty-two hundred and fifty dollars, with interest two years from date; one note for twenty-two hundred and fifty dollars, with interest three years from date; and one note for twenty-two hundred and fifty dollars, with interest at four years from date, all payable with interest at bank in Providence, R. I.

April 10, '52.

1.	90 dys. . . .	$1000
1.	1 yr.	2250
1.	2 yrs.	2250
1.	3 yrs.	2250
1.	4 yrs.	2250

The last four on interest payable annually.

Now it is expressly understood and agreed, that the condition of the above conveyance is such, that if the aforesaid notes, or either of them, shall not be paid at maturity, then this conveyance shall be void and of no effect; and the said rights and interests herein conveyed shall revert back, and belong to the said M. Mason, who is hereby authorized to re-sell them in his discretion, the same as if this instrument had not been executed. And all payments previously made by said Francis Baker and Elisha Smith upon this contract, shall, upon any such breach of payment of the aforesaid five notes, or either of them, when due, belong to and shall be retained by the said as for liquidated damages for said breach of this contract.

In testimony whereof, the parties have hereunto, interchangedly, set their hands and seals, in duplicate, the day and year above written.

(Signed) FRANCIS BAKER, [SEAL.]
ELISHA SMITH, [SEAL.]
NATHAN MASON. [SEAL.]

Sealed and delivered
in presence of
CHARLES D. GOULD.

Received and recorded May 8, 1852.

C.

To all people to whom these presents shall come:

I, Nathan Mason, of the City and County of Providence, in the State of Rhode Island, send greeting:

Know ye, that I, the said Nathan Mason, for and in consideration of the sum of five thousand dollars, to me in hand before the ensealing hereof well and truly paid by Elisha Smith and Francis Baker, the receipt whereof I do hereby acknowledge, and am therewith fully satisfied, contented and paid; and thereof, and of every part and parcel thereof, do exonerate, acquit, and discharge them the said Elisha Smith and Francis Baker, their heirs, executors and administrators, forever, by these presents; have given, granted, bargained, sold, aliened, enfeoffed, conveyed and confirmed: and by these presents do freely, fully, and absolutely give, grant, bargain, sell, aliene, enfeoffe, convey and confirm unto them the said Elisha Smith and Francis Baker, their heirs and assigns, forever.

A certain lot of land with all the buildings and improvements thereon, situate on the northwesterly corner of Potter and Friendship Streets, in said City of Providence, and bounded and described as follows, viz.: Beginning at a point on the southwesterly side of Potter Street, fifty-one feet southerly from a twenty foot gangway, as the same was formerly laid out, thence running southeasterly, on the southwesterly line of said Potter Street, sixty-five feet more or less, to said Friendship Street, thence southwesterly, on the northwesterly line of said Friendship Street, sixty feet, more or less, to land formerly of the late Stephen Waterman, deceased, thence northwesterly on said Waterman land, sixty-one and a half feet more or less to a point forty-four and a half feet southeasterly from the southerly line of said former gangway, thence easterly to the first point or place of beginning. Being the same estate that was conveyed to this grantor, by deed, from Josiah H. Martin, dated July 3d, 1845, and on record in the Land Records of said City of Providence, in book 95, page 186, reference to said deed being had.

Also, all the machinery in the building, on the aforesaid lot of land, which belongs to the said Nathan Mason, without the privilege

of using under this conveyance the four Woodworth planing-machines included in the machinery.

The aforedescribed estate is hereby conveyed, subject to an incumbrance of one thousand dollars.

And I, Emeline Mason, wife of the said Nathan Mason, for and in consideration of the aforenamed sum of money paid my said husband, do hereby remise, release, and forever quitclaim to the said Elisha Smith and Francis Baker, and to their heirs and assigns, all my right of dower and power of thirds in and to the aforedescribed premises.

To have and to hold, the said granted and bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging, or in anywise appertaining to them the said Elisha Smith and Francis Baker, their heirs and assigns, forever, to them and their only proper use, benefit, and behoof forever. And I, the said Nathan Mason, for myself and for my heirs, executors, and administrators, do covenant, promise and grant, to and with the said Elisha Smith and Francis Baker, their heirs and assigns, that at and before the ensealing hereof, I am the true, sole and lawful owner of the above-bargained premises, and am lawfully seized and possessed of the same, in my own proper right, as good, perfect, and absolute estate of inheritance, in fee simple; and have in me a good right, full power, and lawful authority, to grant, bargain, sell, convey and confirm the said bargained premises, in manner as aforesaid. And that the said Elisha Smith and Francis Baker, their heirs and assigns, shall and may from time to time, and at all times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess and enjoy, the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated and discharged of and from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions and incumbrances, of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Nathan Mason, for myself and for my heirs, executors, and administrators, do covenant and engage the above-demised premises to them the said Elisha Smith and Francis Baker, their heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever to warrant, secure and defend by these presents.

In testimony whereof, we have hereunto set our hands and seals, this fifth day of April, A. D. one thousand eight hundred and fifty-two (1852).

(Signed) NATHAN MASON, [L. S.]
EMELINE MASON. [L. S.]

Signed, sealed and delivered
in presence of,
NATHANIEL SEARLE,
SARAH L. MASON.

County of Providence, *sc.* In the City of Providence, on this 5th day of April, A. D. 1852. Then personally appeared the above-named Nathan Mason, before me, and acknowledged the preceding instrument by him signed, to be his free act and deed.

(Signed) NATHANIEL SEARLE,
Justice of the Peace.

Recorded May 1st, 1852, in book 126, page 231, of the Records of Deeds in the City of Providence.

(Signed) ALBERT PABODIE,
City Clerk.

Order for Decree.

Rhode Island District, Circuit Court United States.

November Term, 1855.

NATHAN MASON
v.
WILLIAM B. DEAN. } In Equity.

The exceptions to the master's report in this case are overruled, and the report confirmed. The motion to dismiss the plaintiff's bill is also overruled, and a perpetual injunction ordered, and let a decree be entered accordingly.

(Signed) JOHN PITMAN,
District Judge R. I. District.

Decree.

Circuit Court United States, Rhode Island District, *sc.*

November Term, A.D. 1855. In Equity.

NATHAN MASON et al.
v.
WILLIAM B. DEAN.

This cause came on to be further heard at the November Term of this Court, A.D. 1854, and was argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed as follows, viz.: That the motion to dismiss the plaintiff's bill be and the same is hereby overruled; that all the exceptions to the master's report be and the same are hereby overruled; that the said report be and the same is hereby established and confirmed; and that the complainants have and recover of the defendant the sum of two thousand five hundred and fifty-six dollars and forty-six cents, to-

gether with interest thereon from the twentieth day of December, 1854, and their costs, and that execution therefor issue forthwith.

March 8th, 1856.

Let this decree be entered of record.

(Signed) JOHN PITMAN,
District Judge U. S., R. I. District.

Motion to File Supplemental Bill.

In the Circuit Court of the United States.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

To the Judges of the Circuit Court of the United States for the District of Rhode Island.

Francis Baker and Elisha Smith, both of the City and County of Providence, come and move this honorable Court for leave to file their supplemental bill to the above-entitled cause, a copy of which said proposed supplemental bill is herewith filed.

Wherein their title is set forth, and the grounds stated on which they ask leave to file the same.

By their solicitor,
(Signed) T. A. JENCKES.

Proposed Supplemental Bill.

In the Circuit Court of the United States for the District of Rhode Island. In Equity.

FRANCIS BAKER and ELISHA SMITH
v.
WILLIAM B. DEAN. } Supplemental Bill.

To the honorable the Judges of the Circuit Court of the United States for the District of Rhode Island.

Your orators, Francis Baker and Elisha Smith, both of the City and County of Providence, in the State of Rhode Island, bring this their supplemental bill of complaint to the bill of complaint of Nathan Mason and others against William B. Dean, of the city and county aforesaid; and thereupon your orators complain and say, that heretofore, to wit, on the eighteenth day of November, A.D. 1850, Nathan Mason, of the city aforesaid, and others therein named, filed their original bill of complaint in the Circuit Court aforesaid, against the said William B. Dean, therein setting forth and claiming, by virtue of various instruments in writing, deeds, licenses, and conveyances, therein enumerated and referred to, that he, the said Nathan

Mason, and Charles D. Gould, another of said complainants in said original bill, had become possessed and entitled to the exclusive title, use, interest, and profits of the Woodworth patent so called, within and for the City and County of Providence aforesaid, for planing, tonguing, and grooving boards, planks, &c., either in combination or separately, and therein alleging that the said William B. Dean was infringing upon their said rights, by using and running one or more of said machines within said territory, without license or right so to do; and also seeking a discovery from the said Dean of the amount of business so done by him, and the clear profits of the same, and that he might be compelled to account and pay over the proceeds thereof to said complainants; and praying that he might be enjoined by this honorable Court from the further using in any manner said machine, and for a subpœna commanding said defendant to answer thereto, and abide by and perform all orders and decrees of said Court; that thereupon a subpœna was duly issued, and properly served upon said defendant; that a preliminary injunction was granted against said defendant by said Court, at the November Term thereof, A.D. 1850; that said case came on to be heard and tried at the June Term of said Court, A.D. 1851, and no answer, demurrer, or other pleadings having been filed therein, said bill was taken *pro confesso*, and thereupon a master appointed to take an account of profits, &c., and make report thereof to said Court; that said master entered upon the duties of his said appointment, and made report of his doings in the premises to this honorable Court in March, A.D. 1852, and exceptions were taken thereto by both complainants and defendant, and upon hearing of same, said report was ordered to be referred to said master for further inquiry and proof in the premises, and to make further report, who made his final report to said Court on the 20th day of December, A.D. 1854, of the matters and things therein submitted to his consideration, and therein allowed to the said complainants the sum of two thousand and five hundred and sixty-six dollars and forty-six cents, as the amount of profits which the said defendant, by reasonable care and diligence, might have derived from the use made by him of said patent machine, and sale of the products thereof, from the twenty-second day of May, A.D. 1850, to the twenty-ninth day of August, A.D. 1851, and exceptions were thereupon filed to said report, and the same now awaits the order and decree of this Court; that on the twenty-ninth day of August, A.D. 1851, a writ of injunction was issued by said Court against the said defendant, agreeably to the petition of said complainants, which said writ was duly served upon said defendant on the same day of the issue thereof, therein and thereby strictly and perpetually enjoining him, under a penalty of six thousand dollars, to be paid to the said complainants, to desist and refrain from constructing or causing to be constructed, using or causing to be used, vending, &c., the products of said patent machine, which

said injunction is still in full force and binding upon said defendant, though a petition was made by him to this honorable Court to remove and annul the same, which, on hearing, the said Court refused to do and allow; and the said defendant, at the June Term of this Court, moved to be allowed to file his *his* answer to said bill of complaint, which said motion was heard, overruled, and disallowed, and that various other hearings, motions, petitions, and proceedings, were from time to time made and had in said cause, all of which appear in the files and records of this Court, to which your orators crave leave to refer, and are made part of this supplemental bill.

And your orators would further show unto your honors, by way of supplement, that since the filing of the said original bill, the said Nathan Mason did, by his deed, dated the tenth day of April, eighteen hundred and fifty-two, and which is recorded in the Patent Office of the United States, in Liber P, and page 482 of Transfers of Patent Rights, grant and give in writing under his seal, to your orators, their executors, administrators, and assigns, his full consent and permission and license to construct and use, and vend to others to construct and use, during the said last-mentioned term of seven years of the said renewed patent planing, tonguing, and grooving-machine, upon the principles, plan, and description of the said renewed patent and amended specification, to be used in the City of Providence, in the State of Rhode Island, and not elsewhere, the said Mason therein agreeing and covenanting that your orators should enjoy, during said extended term, the exclusive use to the said patent, within the said City of Providence, limited, however, to the respective number of ten machines, to which said deed your orators crave leave to refer, or to duly certified copy thereof.

And your orators would further show, that from and since the issuing and serving of the aforesaid writ of injunction upon the said William B. Dean, the said Dean, at said City and County of Providence, within the territory of your orator, as above-mentioned and set forth, well knowing the facts aforesaid, and wholly disregarding said proceedings and injunction, and in contempt of this Court, and without any legal grant or license therefor, and in violation and defiance of the patent right aforesaid, and the rights and interests of your orators therein, did set up and put in operation one or more machines for planing, tonguing, and grooving, or either separately or in separate combinations, planks, boards, &c., and vended, or caused to be vended, the products of such machines, which machines were and are, in all material parts, substantially like and upon the plan of the machines invented, made, and put in operation by said Woodworth, and described in said letters patent and the specification set forth in said original bill of complaint, and are the same machines in all essential particulars, the use of which the said defendant was enjoined, as hereinbefore set forth, and that said defendant continues to use said machines either in combination or separately,

or in separate combination, and persists in so doing, and refuses to desist, though warned and requested so to do, whereby great profit hath accrued to said defendant, and great injury resulted to your orators.

Your orators cannot with certainty state the amount of the profit thus unlawfully derived by said defendant, but believe the same to be the full sum of five thousand dollars, and so charge the fact to be, and pray that the said defendant may be required to disclose thereto, and account for all profits arising therefrom, and may answer all and singular the premises, and that said injunction may be enforced against said defendant for the benefit of your orators, and they be entitled to have the benefit of said original suit and the proceedings therein, and to prosecute and carry on the same against said defendant in the same manner as the said Nathan Mason could have done, in case he had not disposed of his interests in and to said patent to your orators, as hereinbefore set forth; and that this your orators' bill of complaint may be deemed and taken as and for a bill of supplement to said original bill of complaint, and for further relief, to the end, therefore, that the said defendant may, if he can, show why your orators should not have relief hereby prayed, and may, upon his corporal oath, and according to his best and utmost knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several additional interrogatories hereinafter numbered and set forth.

First. Whether the grant by the said Nathan Mason to the said complainants Francis Baker and Elisha Smith, was made as above-stated.

Second. Whether the said defendant or his agent or agents at any time or times since the service of the injunction aforesaid, and when and where and during how long a period of time, and with any other person or persons and what other persons, used any planing, tonguing and grooving machine or machines combined together, or how otherwise within the city and county of Providence, and within the Territory above-mentioned, as having been granted to the said Francis Baker and Elisha Smith as above-mentioned, and what particular place or places therein, and whether or not the same were substantially the same in construction, principle and mode of operation as the said planing, tonguing and grooving machine of the said William Woodworth, and how the same differs, if at all.

Third. Whether the said defendant has not made large profits from the use of said machine, in combination or separately or in separate combination, and how much from each and all, and how many machines he has used, and how much work he has done with the same.

And now, to the end that the said defendant may be compelled to account for and pay over the income he has unlawfully derived from the violation of the rights of your orators as above set forth, and that said injunction may be enforced against the said defendant in

behalf of and for the benefit of your orators, and they become entitled to the benefits of said original bill, and the proceedings therein, and that this your orators' bill of complaint may be deemed and taken as and for a bill of supplement to said original bill, and for such further and other relief as to your honors shall seem meet. May it please your honors to grant unto your orators a writ of subpœna, directed to the said William B. Dean, commanding him, under a certain penalty to be therein inserted, personally to be and appear before your honors, in this honorable Court, at a certain day, and there to answer all and singular the premises, and to stand to, perform and abide such order and decree therein as to your honors shall seem meet.

And your orators shall ever pray.

(Signed) BAKER & SMITH,
By ELISHA SMITH.

T. A. JENCKES,
Solicitor.

Decree of Court.

March 8, 1856. Upon hearing the above motion, and on due consideration thereof, and the supplemental bill presented therewith, it is not allowed.

(Signed) JOHN PITMAN,
District Judge, U. S.,
for Rhode Island District.

Motion for Appeal.

Rhode Island District, *sc.*

U. S. Circuit Court, Nov. Term, 1855.

NATHAN MASON et al.
v.
WILLIAM B. DEAN. } In Equity.

The said defendant, now, on this 18th day of the term, in open Court, claims an appeal from the decree in this cause, this day entered of record, to the Supreme Court of the United States, at their December Term, 1856.

By his Solicitor.

(Signed) JOHN P. KNOWLES.

Order of Court.

March 8th, 1856. This appeal is allowed, upon condition that the said Dean file, within 10 days, an appeal bond, with sufficient surety, in the penal sum of six thousand dollars.

(Signed) JOHN PITMAN,
District Judge, U. S., R. I. District.

Appeal Bond.

Know all men by these presents, that we, William B. Dean, of Providence, in the State of Rhode Island, as principal, and Nathaniel A. Eddy and John D. Jones as sureties, are held and firmly bound unto Nathan Mason, of the city of Providence, in the district of Rhode Island, Charles D. Gould, of Albany, in the State of New York, William W. Woodworth, of Hyde Park, in the northern district of New York, administrator of William Woodworth, late of the city of New York, deceased, James G. Wilson, of Hastings, in the State of New York, and Richard Borden and Jefferson Borden, both of Fall River, in the State of Massachusetts, in the sum of six thousand dollars, to be paid to the said Nathan, Charles D., William W., James G., Richard, and Jefferson, their heirs, executors, or administrators, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly and severally by these presents.

Now, the condition of this obligation is as follows: Whereas, at the November Term of the Circuit Court of the United States for the first circuit, begun and holden at Providence on the fifteenth day of November, A. D. 1854, a decree was rendered and pronounced by said Court in a cause in equity in said Court pending, wherein the said Nathan Mason, and others, were complainants, and the said William B. Dean is respondent; from which decree the said William B. Dean has appealed to the Supreme Court of the United States, next to be holden at Washington, in the District of Columbia, on the first Monday of December, A. D. 1856.

Now, therefore, if the said William B. Dean shall prosecute his said appeal before said Supreme Court of the United States with effect, or, in default thereof, shall, well and truly, pay all such costs and damages as shall be adjudged for him to pay by said Supreme Court, or by said Circuit Court, by reason of said appeal, then this before-written obligation shall be void; otherwise it shall remain in full force and effect.

Sealed with our seals, and dated this thirtieth day of March, A.D. eighteen hundred and fifty-six.

(Signed) WILLIAM B. DEAN, [SEAL.]
NATHANIEL A. EDDY, [SEAL.]
JOHN D. JONES. [SEAL.]

In presence of

C. M. HOWLET,
JA'S L. JONES.

United States of America, Rhode Island District.

CLERK'S OFFICE, CIRCUIT COURT,
PROVIDENCE, November 14th, 1856.

I, Henry Pitman, Clerk of the Circuit Court of the United States

for the First Circuit, within and for said Rhode Island District, do hereby certify, that the above and foregoned two hundred and sixty-nine pages contain a true copy of the Cause in Equity, Nathan Mason et al. *v.* William B. Dean, and all the proceedings therein, disposed of at the November Term, A. D. 1855, of said Court.

In testimony whereof, I have hereunto set my hand, [SEAL.] and the seal of said Court, this 14th day of November, A. D. 1856.

HENRY PITMAN,
Clerk.

Citation on Appeal.

Rhode Island District, *sc.*

The President of the United States of America to the Marshal of said District, or to his Deputy,—greeting:

You are hereby required to make known to Nathan Mason, of the City of Providence, in said District, Charles D. Gould, of Albany, in the State of New York, William W. Woodworth, of Hyde Park, in the Northern District of New York, as he is administrator of William Woodworth, late of the City of New York, deceased, James G. Wilson, formerly of the City of Philadelphia, and now of Hastings, in the State of New York, and Richard Borden and Jefferson Borden, both of the Town of Fall River and District of Massachusetts, if they may be found in your district,

That, in a certain cause in equity in the Circuit Court of the United States within and for the Rhode Island District, wherein they were plaintiffs, and William B. Dean, of Providence, in the State of Rhode Island, and a citizen of said State, the said defendant has appealed from a decree of the said Circuit Court rendered against him in said cause at the November Term, A. D. 1855, thereof, holden at Providence, within and for the said District of Rhode Island, on the fifteenth day of November, A. D. 1855, unto the Supreme Court of the United States, next to be holden at Washington, within and for the said United States, on the first Monday of December, A.D. 1856, which appeal has been duly allowed; and that they, the said plaintiffs, then and there be before the said Supreme Court, to hear the proceedings on the said appeal, if it shall seem expedient unto them, and further to do and receive what in the said Supreme Court shall be ordered, adjudged, and decreed in this behalf, and make due return of this Citation, with your doings thereon.

In witness, I have caused the seal of the said Circuit Court to be hereto affixed, and have subscribed these presents, this twelfth day of November, A. D. 1856.

HENRY PITMAN,
Clerk.